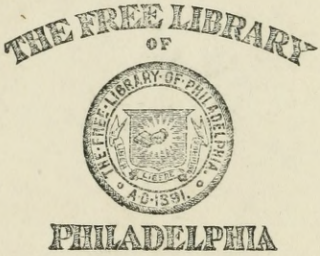
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AMERICAN COUNTY GOVERNMENT

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By

ARTHUR W. BROMAGE

Associate Professor of Political Science
University of Michigan

Holston House

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PREFACE

THE COUNTY is no longer the "Dark Continent" of American politics. In many states there have been surveys of local rural government, official and unofficial. The conditions which they revealed have been widely discussed, but the old order yields slowly. It has been my purpose to set forth in brief compass the historical background and the structural design of local rural government; to present the constitutional and political obstacles to reform; and to describe some of the proposals for improving existing evils. County home rule, county managers, county consolidation, and the elimination of township governments are outstanding proposals of today, and in some states they are being given a trial. The rural county and its antiquated structure have been my chief concern. The gap between the reformer in county government and the general public is narrowing.

To others engaged in studying county government, my indebtedness is great. It has been my privilege to be associated with Professor Thomas H. Reed and Dr. Lent D. Upson in the preparation of a report on county and township government for the Michigan Commission of Inquiry into County, Township and School District Government,

and to serve as a member of the National Municipal League Committee now at work upon basic proposals for reorganizing the county. Valuable suggestions have come to me from Professors Everett S. Brown, John F. Sly, and Roger H. Wells who were kind enough to read the manuscript. I was fortunate in having the assistance of Miss Ione Ely, librarian of the Bureau of Government at the University of Michigan, in the accumulation of documents and in the preparation of a selected bibliography on the reform of county government.

ARTHUR W. BROMAGE.

Ann Arbor, Michigan,
June, 1933.

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CHAPTER I

THE LABYRINTH OF LOCAL GOVERNMENT

IN TIMES of depression, the welkin rings with cries for governmental economy. State legislatures, municipal councils, and county boards fear for their official lives in the hurricane blasts of public opinion. As wage scales drop and dividends dwindle, the demand for governmental reform springs up on all sides. Ultimately, all this has its effect upon officialdom. Salaries are cut; items are omitted from budgets; horizontal reductions in all funds are made. Beyond doubt, these crusades against the high cost of government have a tonic influence upon politics. They halt the progress of expenditures for the time being. But let the economic stress pass and public fear recede, and political units follow their natural upward trend. Ours is a country of expansion. A vast domain was acquired by the westward movement; business grew by leaps and bounds; government—Federal, state, and local—took its cue from popular psychology and expanded its personnel and payroll.

The forty-eight states of the United States contain more than 3,000 counties, and more than 16,500 cities, villages, incorporated towns and boroughs. More than 1,000 township units are contained in the typical state of the Middle West. Eleven states reported in 1930 a total of 65,000 school districts. Almost fifty distinct varieties of special districts exist—fire, water, lighting, levee, drainage, irrigation, bridge, and many more. A 1929 survey listed eighty-nine names of forty-seven varieties of these special municipal corporations, including diking, inlet, storm water, tunnel, and mosquito abatement.[1] Estimates of the number of local governmental units in the United States range from 150,000 to 200,000.

Local government is no small item in the official budget. The National Industrial Conference Board has ascertained that the combined, gross governmental costs in this country, in 1929, were $13,048,000,000. Of this total, the Federal Government spent $3,932,000,000; the state governments, $1,990,000,000; the local governments, $7,126,000,000. The per capita cost of government in the United States, which in 1913 was $30.24, had increased by 1929 to $107.37. Local government expenses in 1929 constituted the major item of the sum total. In that year, as in every year since 1924, local expenses exceeded those of the combined state and Federal governments.[2] Reduction must begin at home.

[1] Cf. F. H. Guild, "Special Municipal Corporations," *National Municipal Review*, XIX, 1929, pp. 319-323.

[2] National Industrial Conference Board, "Cost of Government in the United States," 1929-1930, pp. 17-18.

The taxpayer bears this burden not without complaint. The effects of rising governmental outlays upon the people were strikingly illustrated by Herbert Hoover in his address before the 1932 conference of governors at Richmond, Virginia. He pointed out that the total cost of national, state, and local governments before the War represented approximately only 8 per cent of our national income. During boom times after the War, the cost of government mounted until it absorbed about 15 per cent of the national income. "To-day," he told the governors, "with the falling off of business, the aggregate expenditures of national, state and local governments probably represent more than 20 per cent of the national income." Driving the lesson home, he continued: "Before the War, theoretically, every man worked twenty-five days a year for the national, state and local governments combined. In 1924 he worked forty-six days a year. To-day he works for the support of all forms of government sixty-one days out of a year. Continued progress on this road is the way to national impoverishment." [3]

A short-term program to cut down governmental expenditures by lopping off employees and services, or making horizontal cuts in salaries, is executed more easily than a long-term program to consolidate or eliminate some of the units now in operation. The former puts a brake on governmental spending which is released as economic improvement sets in. The latter seeks permanent reduction in the number of governments.

[3] *The New York Times*, April 28, 1932.

County and Township

The problem simplifies itself to this: any reduction in the number of governments must be made in the local units. Regional governments have been suggested to replace the states, but such a step is a remote contingency. County consolidation is a possible means of reduction. Combine two, three, or four small counties into a single governmental unit and reduce proportionately the number of county courthouses and their occupants. Although this has been widely advocated, it is one of the most difficult things to put into operation. Governors, official and unofficial commissions, and private citizens have advocated it day in and day out these last few years. Some consolidations have been accomplished, notably in Tennessee and Georgia. Elsewhere the county lines remain intact. To say that county consolidation reduces the ramifications of the political labyrinth is a matter of minutes; to persuade a state legislature and the counties involved that consolidation is advisable is a matter of years.

Counties were established in a horse-and-buggy age. They conform to what was a logical and convenient area of administration before the revolution in transportation and communication. Their borders are no longer suited to the increased and increasing mobility of man. Many states have seventy-five, one hundred, even more than one hundred counties. County officers naturally cling to the old régime. Without militant public opinion in back of it, county consolidation makes small progress. No com-

munity will relinquish the courthouse and all that it means without a struggle. County seats are important to office-holders, merchants, property-owners, and party-workers. As distributing centers for patronage, they are significant in local, state, and national politics. The consolidation of counties is a ticklish, political task.

The township, a smaller local unit than the county, forms part of the American political labyrinth. Whereas the county is a part of the local government of every state, the township is by no means ubiquitous. Where the township does persist, many rural functions have outgrown its diminutive area. Yet the consolidation or elimination of townships is almost as difficult as the consolidation of counties. In Illinois where seventeen counties in the southern section have no townships, comparative studies show financial savings. The Mid-Western township is an institution with a useful past. Conditions have changed. A state need no longer be divided into a thousand governmental entities some six miles square, each an organized body politic.

There is a gulf between abstract opinion in favor of county consolidation and township abolition, and political aversion to these proposals. Taxpayers will go in a body to the courthouse to threaten the board of supervisors into immediate reduction in taxes. They display less enthusiasm for programs of major reorganization. Public inertia has prevented major reforms. County and township are traditional instruments of government with the force of precedent behind them.

The inadequacy of areas is one vulnerable point in county administration. Another is its antiquated structure founded upon Jacksonian traditions. Not only the county board, but also the administrative officers—clerk, treasurer, assessor, sheriff, and others—are too often chosen at the polls. County government is a patchwork of independent, elected officers, boards, and commissions. The long ballot remains. So long as county functions are divided among heterogeneous, elective officials, the correlation of county activities into a series of departments dealing with related problems is impossible. A chief executive, either a mayor or a manager, with power to select the heads of county departments is a rarity. There is no one head with power to appoint subordinates, each with a well-defined sphere of work. The best vote-getter becomes the county's administrator. In the absence of a merit system, appointive positions go to faithful workers of the party in power.

America's one conspicuous failure in 1888, according to James Bryce, was the city. Fifty years have not elapsed since his indictment, but the manager plan has wrought one success after another in municipal government. City after city has reorganized its slipshod administration into departments with integrated functions. The executive budget, centralized purchasing, and civil service have made headway in municipalities. Too often the washing of dirty linen in an occasional American city attracts more attention than the progressive improvement of municipal administration.

On the contrary, county government has undergone rela-

tively few changes in its structure, but there has been a rapid change in the basis of its support. Once self-supporting, many counties now piece out their revenues with state aid. More and more the states have supplemented the funds necessary for education, highways, and other services in local districts. These grants are tendered on the theory that the burden of government should be equalized. The good of the whole state comes before that of any part. State aid is justified so long as the satisfactory maintenance of a particular function is necessary to the welfare of the whole state. The state, however, has reason to expect county government to be as economical as possible, if local revenues are to be supplemented by state aid.

New York State, for example, shares state-collected taxes with local governments and grants state aid as well. State Senator Seabury C. Mastick has pointed out that during the fiscal year 1931, the state distributed to the counties $70,919,375.95 from the "income tax, motor vehicle tax, bank tax, motor fuel tax and mortgage tax." During the same fiscal year he said: "The state paid the counties in direct state aid for highways, educational purposes, health, reforestation, and social welfare, $105,583,842.13. In other words, during that fiscal year, the state contributed to the counties, from special taxes and by direct appropriation, $176,503,218.08."[4]

[4] *The United States Daily*, Sept. 20, 1932.

Obstacles to County Reform

County government is not at present operating on the most efficient lines. The tocsin of reform has sounded, but state legislatures are slow to adopt new ideas in the structure and area of county governments. Unlike municipal reorganization, county reform depends largely upon leadership in the state legislature. In spite of rapid urbanization of this country, state legislatures are predominantly rural, and are loath to turn the knife upon the county.

Several stock devices have been developed for preserving the balance of rural influence in state legislatures. One is to allot to every county, regardless of size or population, at least one representative in either the senate or the house. More than 60 per cent of the states employ this policy. Another method is to place a limit upon the representation which any one county may have in the legislature. This takes care of the threat that a metropolitan county, because of its dense population, may wrest control from the remainder of the state. In seventeen states there is an express or implied restriction upon the number of senators a county may have. Twenty-six states have a similar restriction as to the lower house.[5] Such constitutional provisions assure to rural areas a retention of their power in many state legislatures. The use of the county as a representative district explains, in part, why state legislatures are not eager to accept changes in government

[5] Wayne County Board of Supervisors, "The Michigan Plan," 1931, pp. 8, 14.

such as county consolidation in sparsely settled rural areas. In a state where every county, regardless of population, is awarded a member of one or the other branch of the legislature, county consolidation might save money, but it would reduce the number of rural legislators.

Other obstacles confront county reorganization. In approximately one-half of the states, constitutions contain such rigid specifications regarding county government that new plans must wait upon amendments. The growth of these constitutional protections for local office-holders is a long story. The framers of state constitutions took cognizance of already existing institutions and their officers. So the legal recalcitrance of county organization has developed. Where a constitution requires, for instance, a number of elective office-holders, how can a county manager with appointive authority be created? The first move must be a constitutional amendment giving to counties home rule or authorizing the state legislature by optional laws to make available to counties new types of government. Experience with municipal home rule is extensive. In California alone has the county home rule principle been put into real practice with counties drafting and adopting charters. Maryland has a county home rule amendment, but only one county attempted to adopt a home rule charter and that was a failure.

Because of its position as an administrative subdivision of the state, the powers and duties of the county must be fixed by the state legislature. For this reason county home rule should allow counties only to determine their struc-

ture—whether they should have a manager, mayor, or some other system. Their powers and duties should still rest with the legislature. Another method of breaking the present constitutional bonds that fetter county government is to authorize the state legislature by constitutional amendment to establish optional forms of county government. This method has been followed by Virginia. In 1928, a constitutional amendment allowed the legislature to create alternative types of county administration. In 1932, the state legislature made optional a county manager system and a county executive plan.

Another factor which makes county reorganization complex is that counties vary so greatly in their populations and problems. In the small, agricultural county the government is intensely personal. Simple governmental organization is needed; the employees are not of sufficient number to justify a separate civil service commission for it alone. Absence of large urban centers precludes an urban-rural conflict in the county board. In such a county the farmer may drive his automobile to the same county courthouse before which his father tethered the horse. Once within this architectural phenomenon he may discuss politics as of old; argue against state encroachment upon local self-government; denounce the industrial age in which he lives; and take consolation in rural control of the state legislature. He may regard movements to reform the county as attempts to foist urban ideas upon rural counties and county consolidation as a disruption of carefully built political fences.

At the other extreme is the metropolitan county with large and satellite cities within its borders. Here the contact between the public and county officers becomes impersonal. A more complex governmental mechanism is needed. The long ballot becomes more intolerable. Public opinion may be more receptive to the development of a chief executive officer to administer through appointive subordinates the policies determined by the county board. Between these extremes are all manner of counties: suburban, joint industrial and agricultural, mining, forest, cut-over, and resort, in varying combinations. All this makes absurd the policy of applying throughout a diversified state a common form of county government. At the same time, it leads to many points of view regarding the reconstitution of county government.

Surveying the Problem

Franklin D. Roosevelt, campaigning in the Middle West in 1932, called for permanent relief for agriculture through national leadership in reduction and equitable distribution of taxes. He declared himself in favor of "a national movement to reorganize local government in the direction of eliminating some of the tax burden which now bears so heavily on farms. There are too many taxing districts, too many local units of government, too many unnecessary offices and functions. The governmental underbrush which has sprouted for years should be cleared away."[6] This did not bring the salvos of applause which

[6] *The New York Times*, Sept. 15, 1932.

greeted his attacks upon the Federal Department of Agriculture and the Federal Farm Board. Reforms in the Federal Government are more popular than elimination of local units and offices. Charity, perhaps, should begin at home, but not the elimination of political offices!

Agitation for a new deal, however, has precipitated numerous local surveys. Many states have authorized commissions to take stock of their county problems. The California Commission on County Home Rule made its report on county government to Governor C. C. Young in 1930. The report of the Institute for Government Research of the Brookings Institution to Governor O. Max Gardner of North Carolina, in 1930, was followed by drastic legislation in that state. North Carolina incorporated county roads in the state highway system, assumed the current operating cost of a six months' school term, and relieved counties of the custody of all able-bodied male convicts whose sentences extended for sixty days or more. The Virginia Commission on County Government recommended to the 1932 session of the General Assembly that a county manager plan and a county executive form be made optional with any county in the state. The Assembly not only authorized such optional forms, but followed the precedent of North Carolina in road legislation. Montana in 1931 adopted a county manager law optional with any county in the state. In the same year, Michigan established a Governor's Commission of Inquiry into County Township and School District Government, with power to investigate rural government and report to the

legislative session of 1933. In 1932, the Institute for Government Research of the Brookings Institution surveyed state and county government in Mississippi and Alabama. The Institute of Public Administration of New York City submitted to Franklin D. Roosevelt, in 1932, a Memorandum on the reorganization of local government in the Empire State. As late as 1917 the county was called the "Dark Continent" of American politics.[7] Since that time, state commissions and private investigations have thrown much light upon it.

Reform in county and township government does not offer a complete solution for the farmer's troubles. It will not elevate the price he receives for agricultural products nor decrease the cost of industrial commodities. The law of supply and demand cannot be altered by reducing the number of local governments or by introducing better types. However, reduction of taxation is one important remedy. In some measure, readjustment of local governments in rural areas will accomplish this end.

[7] H. S. Gilbertson, "The County the Dark Continent of American Politics," 1917.

CHAPTER II

THE POWER OF THE PAST

THE POWER of the past is nowhere more evident than in American local government. Its roots penetrate deep into the history of the Anglo-Saxon race. The twentieth century American county and township bear the marks of Colonial models, which were in their turn stamped with the imprint of English institutions. Four major systems of rural government have evolved: the New England town, the township-supervisor model, the commissioner type, and the Southern county. These predominating systems all have distinguished Colonial lineage, and appeared decades before the Declaration of Independence. As the course of empire moved westward upon the new continent, Colonial models reappeared in the new territories and states. So the "governmental underbrush" spread throughout the length and breadth of the land. It took root, and through decade after decade multiplied many fold.

The New England Town

The Pilgrims took the first steps toward local government in New England. There the town was to become the primary unit. The Plymouth colony first managed

its affairs by a meeting of the men. As settlements increased, each town conducted its prudential business through a town meeting, while a General Court, made up of delegates from the individual towns, superseded the common meeting. From the General Court emanated orders for governing the towns. "Each town," as John F. Sly says, "was given the liberty to make such orders as it deemed expedient concerning the restriction of swine, new plantations were forbidden to build houses more than half a mile from the meeting-house without permission of the General Court, and specified training days for the local militia were ordered."[1] At first, town meetings were frequent. The early records of Dorchester called for a meeting every Monday morning. With the development of selectmen and other town officers and the expansion of their powers, an annual town meeting to pass upon community affairs and to select these functionaries became the rule. County government was relatively trivial compared with the sturdy growth of towns, and it has remained so in New England.

The early New England town was an example of direct democracy, managing its affairs in parsimonious manner. A homely institution, the town meeting was distinctive of town life. Within its forum, the settlers by word and vote made their influence felt. They chose their major officials—selectmen, constables, treasurers, recorders—and

[1] J. F. Sly, "Town Government in Massachusetts," Harvard University Press, 1930, p. 20.

a galaxy of lesser lights—cow-keepers, fence-viewers, drummers, pound-keepers, bellmen, corders of wood, overseers of chimneys, and the like.

Historical origins of the New England town have been disputed. Many theories have been put forward. Some have been repudiated, and all have been storm centers of controversy. One of these theories held that the New England town was a revival of the Germanic *mark*—a local institution, according to Tacitus, found among the Germanic tribes on the European continent about 100 A.D. Another theory deemed the town to be a transplantation of the English parish, altered to suit the circumstances of settlement in a new country. The English parish was originally an ecclesiastical unit which approximated geographical coincidence with the civil township. By custom, the parson called a parish meeting, known as the vestry, to consider church problems and to elect and control officers. Local life built itself around the parish, which became increasingly embroiled in civil as well as ecclesiastical administration. After the Reformation, the parish grew to be the center both of secular and religious life and government in England.

The Colonists tended to adapt for use in the new world the institutions with which they had been familiar in England. As Edward Channing wrote: "Sometimes a whole parish, parson and all, removed to Massachusetts. . . . The religious edifice of the New England town was known locally as the meeting house. As in England, it was the

center of local life in Church and State."[2] This is not to say that the founders of the New England town reproduced on this continent the English parish. Whatever the influence that institution may have had, it became less distinct as town government was adapted to the exigencies of the new continent.

The records of the New England towns teem with entries showing what local government really was in the Colonial period. The town meeting provided support and regulation for the school. Schoolmasters were sought and retained. Provision was made for hauling wood to heat the "Schoolehowse." Orders were adopted governing the relationship between the master and his scholars. The hours of learning were many, and the rod of correction was not always in abeyance. The school, the church, no detail of community life was too minute for the town meeting. No matter was too picayune for its agenda. As the records of Worcester for 1773 show, seating arrangements in the meeting house on Lord's Day were a matter for serious consideration. The question was put in that year whether "any part of ye Womens Gallery should be appropriated for ye men to sit in and it Passed In ye Negative."[3]

The economic life of the town was simple, and simple rules sufficed for its regulation. In the face of governmental complexity to-day, consider this instruction in the

[2] Edward Channing, "History of the United States," The Macmillan Co., 1905, I, pp. 426-427.

[3] Quoted in G. E. Howard, "Local Constitutional History of the United States," 1889, p. 73.

Dorchester Town Records for driving cows to pasture: "It is ordered that Jo: Maudsly and Nicholas Wood shall keepe the Cowes for this yeere in the ordinary Cow pasture, and to keepe them from the 15th Day of Aprill next to the first of November next, the sayd keepers to blow their horne at fyue of the clocke in the morneing at Joseph Pharneworth and so along the Towne till he come to Mr. Meinots, and every man one the North side of the Towne to bring their Cowes befor the meeteing house, the Rest to bring their Cowes beyound Mr. Stoughtons dore, or elce the keep's to driue away the heard, and not to stay for the rest."[4]

Primitive conditions protected the independence of these little democracies. Stockades which defended them from Indian attacks symbolized the independence of the towns and the intramural union of the townsmen. The ban on buildings erected more than one-half mile from the meeting house manifests the community's solidarity. Self-sufficiency was the order of the day.

In spite of the growth of state power, the present New England town—particularly the rural town—has retained many of the qualities which marked its Colonial antecedent. So the New Englander to-day points to it with pride: "The citizens of our hill town have practiced here those principles of self-government in the home, in the church, and in the town which have 'made' not only New England, but those great communities across the breadth

[4] Quoted in G. E. Howard, *op. cit.*, p. 94.

of the continent whose spiritual traditions trace back to our old colonies by the Atlantic."[5]

The Southern County

In the South, the county emerged during the Colonial period as the primary local unit. This, like the New England town, was part of our English birthright. Shires, in Britain, were territorial and political divisions larger than the township. While Saxon kings ruled, the shires were not subjected to any great degree to a central authority. After the Norman Conquest, shires were designated as counties. The Norman kings now united the counties, bringing them under the central jurisdiction of London. At the time the English settlers came to America, the English county was being ruled by justices of the peace, chosen by the Crown. These justices served as a county court of criminal jurisdiction, performed administrative work, and managed the fiscal affairs. A sheriff, chosen by the Crown, preserved the peace. Coroners were selected by the county court to make inquests in cases of suspicious deaths. The court likewise chose commissioners to make tax assessments. A Lord Lieutenant, appointed by the Crown, served as military head. The administration of the county was highly centralized, each major officer owing his appointment to the Crown, either directly or indirectly. County finance and administration were maintained by the judicial officers.

[5] T. M. Banks, "Our Town Meeting," *The Atlantic Monthly*, CL, 1932, p. 383.

The Virginia county, typical in many respects of the county in Southern colonies, was patterned on the English model. Its administration was under the control of the county court composed of justices appointed by the governor. The coroners and the sheriff likewise received their appointments from the governor, as did the county lieutenant who had command of the militia. Other county functionaries were given their appointments by the county court. Here, as in England, the officials owed their positions directly or indirectly to a central authority. The custom of justices of the peace acting as the administrative board of the county still survives in Tennessee, Arkansas, and Kentucky. They are not now, of course, appointed by the governor, but are directly elected from districts within the counties. Prevailing instances of judicial officers as administrators hark back to colonial practice and English precedent. The system of county government in Colonial Virginia threw control into the hands of the leading planters. That they should be always in the saddle was the cause of some discontent. The justices were influential men and extremely independent. "On their own plantations they were supreme, as was well expressed by one of their number when he asserted that a Quaker 'might as well go naked into a hot oven as set his foot on my plantation.' " [6]

Centralization of authority over county officers in Virginia was typical of the Southern colonies. This continued long after the close of the Colonial period. It was not

[6] Edward Channing, "History of the United States," II, 1908, p. 81.

until the Virginia constitution, which became effective in 1852, that direct election replaced appointment in that state. Democratization of county government came earlier in the old Southwest. Although the parish also existed in Southern colonies, it was overshadowed by the position of the county. This larger unit was the natural mechanism for local government in the South with its vast and scattered plantations, and the parish was abortive there. The county took root in the South. After the rise of the common man, during the Jacksonian period, it became a democratic institution with direct election of county officials.

In the struggle for existence in the new hemisphere, local institutions underwent an evolutionary process. It was a case of survival of the fittest. Rigors of climate and menace of Indians necessitated concentrated communities in New England. Town organization emerged. In the South, where the elements were less inclement and where the plantation system engendered open settlement, the county flourished.

New York and Pennsylvania

In New York, after the English gained control in 1664, town government was established, based, with variations, upon the New England model. Recognition was accorded the preëxisting town meeting, an institution which had already taken root among the Puritans in that colony. In 1683 the first representative assembly divided the colony into counties. County functions at first proceeded upon the Virginia scheme, but this did not long continue. A

few years afterward, county government was democratized. Each town was authorized to elect a supervisor, and these local representatives were empowered to assist the justices who had previously been all sufficient. Gradual aggrandizement of power on the part of the supervisors ensued, with corresponding diminution of fiscal and administrative duties of the justices. The supervisors collectively constituted a county board; individually they served as the chief administrative officers of their respective towns. In addition to the supervisor, the town meeting elected a constable, collector, assessor, clerk, highway commissioner, and overseers of the poor. These institutional changes in New York were momentous, for the township-supervisor arrangement was later widely copied in the Middle West. A vigorous town government, inherently democratic in principle, was linked with an active county government. The link was forged through creation of a county board of town supervisors.

The town or township, as it is known in Pennsylvania, did not achieve the importance there which it did in New York. In Pennsylvania, the New England influence was not predominant. Although towns existed, they were not as active as those of New England or of New York. Because of this, it is not surprising that towns were not accorded representation upon the county board as in New York. By act of 1724, it was provided in Pennsylvania that counties be governed by three elected commissioners. The county board thus recruited was very different from either the Virginia county court of justices or the New

York county board of township-supervisors. While the township persisted in Pennsylvania, it was relegated to a secondary position. Taking its name from the character of the county board, the Pennsylvania system became known as the commissioner type. Like the township-supervisors of New York, the commissioner form was to be instrumental in determining the structure of rural government in the Middle West.

Thus were four basic systems of local government founded during the Colonial period. The New England development was distinguished by the town, the county being dormant. In the South, large plantations fostered the county. Town and county struck a more even balance in the Middle Atlantic colonies. New York linked county and town through representation of the latter upon the county board. In Pennsylvania, a small board of elected commissioners controlled county affairs, while the township exercised less jurisdiction.

Institutions of the Frontier

As the settlers moved westward, these four original models followed in their train. Nowhere was the county as insignificant as it was in New England. The Mid-Western states followed the New York township-supervisor type and the Pennsylvania commissioner plan. Some used one plan alone; others used both. The growing South and the Far West, like the original Southern commonwealths, made the county preëminent.

Introduction of the township into the Mid-Western

states can be traced, in part, to the advice of Thomas Jefferson, who had great faith in the New England town or township. He argued that the townships would be "pure and elementary republics. . . ." [7] The draft of an ordinance for ascertaining the mode of locating and disposing of lands in the Western territory was reported by Jefferson to the Congress of the Confederation in 1784, proposing that the land "be divided into Hundreds of ten geographical miles square." [8] Congress, however, took no final vote upon this subject until 1785, when it decreed that "the surveyors . . . proceed to divide the said territory into townships of six miles square." [9] These territorial divisions became the basis of political organization. The government surveyor by laying out the Congressional township outlined local rural government. The Congressional township, the creature of legislative fiat, was generally accepted in the Middle West as the territorial boundary of the organized civil township.

The local institutions of the original states moved westward. In Michigan, the New York influence was finally decisive, though not so at first. From 1817 to 1827 that territory made kaleidoscopic changes in county government. In 1817, a court of quarter sessions, made up of justices of the peace and justices of the county court, was given supervision of county finance. This plan was aban-

[7] "The Writings of Thomas Jefferson," H. A. Washington, ed., VII, p. 35. This principle was expressed in a letter to Samuel Kercheval, Sept. 5, 1816.

[8] "The Writings of Thomas Jefferson," P. L. Ford, ed., III, p. 476.

[9] *Journals of Congress*, IV, p. 520; Act of May 20, 1785.

doned a year later in favor of a board of three county commissioners nominated by the governor. Then, in 1825, the Legislative Council of the Territory determined that the county commissioners should be elected by the qualified electors of the respective counties. The day of the commissioner system in Michigan was short. Two years later, the Legislative Council succumbed to New York influence and set up the township-supervisor plan. This has remained entrenched in Michigan for more than one hundred years. The legislation of 1827 provided: "That the supervisors of the several townships, in each of the several counties of this Territory, shall annually, on the third Mondays of January, April, July and October meet together at the court house . . . and examine, settle, and allow, all accounts chargeable against such county, and ascertain what sum ought to be raised for the payment thereof, and for defraying the public and contingent expenses of such county." [10] This township-supervisor system, inherited from Colonial New York, became part of the Michigan constitution in 1850, and was retained in the revision of the constitution in 1908. The existence of this system of county and township government in a modern state can be understood only in the light of history, vested interests, and local prejudices.

Illinois is an even clearer product of the results of migration in parallel lines from the Atlantic seaboard. Illinois, by reason of its extreme geographical length, was settled both by Southerners and Northerners. In its

[10] Michigan, "Territorial Laws," II, p. 325; Act of March 30, 1827.

southern part, the population came from Virginia and other Southern states. Upper Illinois received a different influx, largely from the North. Even to-day the outcome of this merger can be seen. In northern and central Illinois the township-supervisor plan is predominant. In the southern half of the state, the Southern county is in evidence.

The battle over local institutions in the new lands was ever rife. In Ohio the contest was between township-supervisor and commissioner. The commissioner system has triumphed with a county board of three members elected at large. Although the townships were denied representation upon the county board, they did not die out. The township still exists in Ohio. Each system had its victories as the tides of migration progressed westward. The township-supervisor form became and remains the dominant factor in rural government of Michigan, Illinois, and Wisconsin. The commissioner plan outdid its rivals not only in Ohio but in Indiana, Iowa, Minnesota, the Dakotas, Missouri, Kansas, and Oklahoma. As in Michigan, some states experimented with different types. Nebraska, for example, tried the township-supervisor method and reversed its policy in favor of commissioners. The county, with administrative subdivisions rather than townships, swept the South, the Mountain states, and the Pacific states. As it moved westward, the Southern county underwent democratization. County officers were no longer appointed as in the Old Dominion, but were

elected as in the new commissioner and township-supervisor states.

Local rural government of the United States was forged before the Civil War plunged the North and South in fratricidal conflict. States were commonly divided into counties, insignificant in New England, vital in the South. Within the counties were smaller divisions, such as the New England town, a substantial local unit; the Mid-Western township, a pale copy of the New England model; and the administrative districts of the South. Everywhere the principle of direct election by the people of administrative officers of county, town, or township was widely practiced. Jacksonian democracy held the center of the stage with direct election and rotation of office-holders. It was during the Jacksonian era, when the common man was in his ascendance, that local rural government was cast in the mold which only now is being broken.

During this period, when the first principles of local government were finding their way into state constitutions and statute books, conditions were very different. The demand for free public schools was just rising. People did not take for granted the theory that one man's property might be taxed to educate another man's child. Manhood suffrage, achieved first in the frontier states, swept back into the original commonwealths, breaking down the barriers between property-owners and the property-less. Because any man could vote, it was assumed that any man could govern. Rotation in office seemed to ensure democ-

racy at that time. The spoils system reared its head as never before in American public life. Internal public improvements, the canal and the public road, were projected. The country had not yet been linked by the transcontinental railroad. Carriages were still drawn by horses; no automobile whisked its occupants across township and county lines. The tempo of the times was slow. The year 1838 saw the era of regular transatlantic steam navigation begin. Sectionalism was everywhere rampant, but the habit of scurrying to Washington for solution of all evils was unpracticed.

In such an age, local government assumed the forms still familiar in American states. The county and the township were of necessity small, to conform with the physical capacity of man and horse. Their officers were directly elected, following current political dogma. The executive budget, centralized purchasing, city and county manager, were unthought of and the need for them unfelt. Local government had roots deep in the past, but no tendrils toward the future. Modern appraisal of these governments shows the folly of slavish adherence to forms of government devised before the Civil War. Only by radical revision of the county can it be preserved. The township, outside New England, appears doomed. Failure of rural administration to keep abreast of the times presages complete breakdown of local self-government. State centralization would inevitably result.

The Results in the Twentieth Century

Rural institutions were more suited to Colonial times than to the present, because they were made for them. Many of the internal workings of modern counties are sheerly traditional or habitual. Direct election of administrative officers is an inheritance from the past. Twentieth century county organization in any state must be explained by tracing its medley of elected officers, boards, and commissions through the constitutions and statutes of the nineteenth century to Colonial models of the seventeenth and eighteenth centuries. Many of the newer states of the Union emulated the original commonwealths, and so the institutional past of the seaboard states came to dominate the nation. This point was well recognized in the 1932 survey of county government in Mississippi:

> "The internal organization of the county in Mississippi is largely traditional, copied from institutions evolved more than a century ago—not in Mississippi but in other states—and adopted in this state with little essential modification and with little, if any, critical study. When new conditions have arisen, functions have been transferred from the county to the state piece-meal and in such manner as seemed at the moment most expedient, or new functions have been grafted in the same opportunistic manner on some branch of the old county organization, without

regard to any sound principles of governmental or business administration." [11]

These political remnants of a bygone era have been written into and perpetuated by state constitutions. State legislatures in the United States, in spite of rapid urbanization, are still predominantly rural in membership and outlook. As such, they have shown no great eagerness to suggest constitutional amendments which might break the strangle hold of the past upon county mechanism. The legislative ear is tuned to the county seats and hears first the opinions of county potentates before those of the general public. County officers stand for the preservation of their old status, and naturally resent any proposed inflictions upon it. To defend one's established tenure is an elementary rule of political life. Thus far, the people as a whole have not demanded major structural changes, and so the past holds sway. County inhabitants are not yet convinced that they should substitute for their existing boards of supervisors and officers a county mayor and council, or a county manager plan. The truth in government is not as compelling as what the people believe to be the truth. If, as in a few states, they believe that the township-supervisor system, a bequest from seventeenth century New York, is superior to county managerial sys-

[11] Institute for Government Research of the Brookings Institution, *Report on a Survey of the Organization of State and County Government in Mississippi*, 1932, p. 729.

tems evolving in twentieth century California and Virginia, then the past still rules.

While the governmental structure of the county has remained without major modifications, its functions have undergone changes. The county has taken over many township activities. In school administration, the county unit plan has been developed. These reforms are not universal, but the good work has begun. Tennessee and Georgia have led the way in county consolidation. Other states have experimented with functional consolidation, providing for the maintenance of various activities on a multi-county basis. State supervision of local tax rates and indebtedness has been established as in Indiana and New Mexico. Compulsory budget laws, uniform accounting and reporting to the state, have in some commonwealths induced better financial methods. All these changes, whether or not everyone agrees with them, show recognition of the need for rejuvenation of rural administration. In a few states, such as California, North Carolina, Montana, and Virginia, counties have at least been permitted to alter their structure through home rule or optional legislation.

While all this is true, county government is out of date from a structural point of view. In Ohio, a 1932 study of the situation reported that: "The county is unique for the antiquity and complexity of its governmental system. Its organization consists of a medieval framework gradually modified and expanded in Colonial times and greatly enlarged in the last 75 years. Its growth has been piece-

meal and utterly without plan."[12] Even in Virginia, where a few counties have moved in the direction of the managerial idea, the bulk of counties remain under the old order. In urging the legislature, in 1932, to make the manager plan optional with the counties, the Virginia Commission remarked that: "Improvements have been made in certain phases of county government in Virginia in the past five years—improvements comparable to those in any American state. Yet the counties of Virginia are operating under a form of organization which was embodied in most essential particulars in the State Constitution of 1852."[13]

In state government, revolutionary changes have been effected within recent years through the integration of administrative officers under the appointive authority of the governor. Not all the states have done so, but there are notable examples such as New York. In the face of progressive revision of state structure, New York persists in a system of town government "established over two hundred years ago" and a plan of county government "recognized by the constitution of 1777." Such was the verdict of a Memorandum on the reorganization of local government to meet modern conditions submitted to Governor Roosevelt in 1932.[14]

[12] The Ohio Institute, "County Organization and Government in Ohio," 1932, p. 8.

[13] Virginia Commission on County Government, *Report to the General Assembly*, 1931, p. 8.

[14] Institute of Public Administration, "The Reorganization of Local Government in the State of New York to Meet Modern Conditions," 1932, p. 3.

American cities have recognized the obsolescence of inherited forms. The modern American mayor and council are so different from the mayor and council of the Colonial boroughs as to defy comparison. The city manager plan is distinctly American and rests upon no historical archetype. In both cities and states the current has been unmistakably in the direction of a responsible chief executive. Such modernizing movements have so far merely scratched the surface of county government.

CHAPTER III

SYSTEMS OF RURAL GOVERNMENT

FOUR major types of rural government exist in the United States. The *town* has always been predominant in New England. The *township-supervisor* system persists in New York, Michigan, Illinois, and Wisconsin. In these states, township and county form layers of government with township representation upon the county board. The *commissioner* system is found in a triangular region from New Jersey to Oklahoma and the Dakotas. In this area, township and county governments both appear, but township representation upon the county board is generally lacking. In the South and Far West, the *county* is the primary unit of rural government. Here the county is commonly subdivided into districts to serve in the conduct and administration of elections, roads, schools, or justice, as the case may be. Where the township appears in this group of states, it is similarly an administrative district of the county.

These four systems are all going concerns in American government. This is not to say that every state of the Union can be designated as being exactly within one or another of these categories. Governments present too intricate a picture, and no generality holds absolutely in

every state to which it is applied. These four major systems are the most plausible distinctions which can be made. The variations within the states comprising each regional group are extensive. A few states defy classification entirely in any group. Certain blocks of their counties use one system; other groups of counties, another.

The Town in New England

The typical New England town is some twenty to forty square miles in area, while the typical Mid-Western township contains thirty-six square miles. To this general rule there are exceptions, notably in northern Maine which has townships comparable in size and regularity to those of the Middle West. The real distinction between the New England town and the Mid-Western township goes deeper than the mere question of area. The former is commonly irregular in shape and is the product of actual growth; the latter is generally regular in outline and partly the result of the governmental land survey policy. Moreover, in the Middle West the practice is to incorporate villages as separate and distinct political entities from the township. The New England village is, with little exception, the core of the town itself. In New Hampshire, Massachusetts, and Rhode Island the compactly settled regions of the towns, except for special district purposes, are not separately incorporated. The villages are an organic part of the town fully as much as the rural territory within the town boundaries. The exceptions to this rule are in Maine,

Vermont, and Connecticut, where a few incorporated villages and boroughs obtain.[1]

This is unlike the practice in Mid-Western states of incorporating as villages or minor cities the densely settled portions of the rural townships. The governmental problems of the villagers may be better solved by this segregation, but it disrupts whatever social and economic unity the township may possess. New England has avoided this process by retention of both villages and farming areas as vital parts of the town. There are other reasons for the vitality of the New England town. It is not overshadowed by a strong county unit, as is the Mid-Western township. The county in New England is a political dwarf. State centralization and town government tend to make the county there a judicial district.

The New England town is one of the few remaining examples of direct democracy in the world. Assembled in town meeting, the qualified voters elect their officers and pass local by-laws. They determine appropriations and levy taxes. The selectmen are the most important officials selected by the town voters. While their duties are manifold, the selectmen are under limitations imposed by statute and by the town meeting. Unlimited praise has been heaped upon these little democracies. In a changing world, it is reassuring to think of New Englanders gath-

[1] In 1930, Maine had twenty-seven incorporated villages; Connecticut, twenty boroughs; and Vermont, sixty-six villages. Cf. United States Bureau of the Census, *Population Bulletin* (1930, First Series), United States Summary, p. 1; Maine, pp. 6-11; Connecticut, pp. 6-7; Vermont, p. 8.

ered in town meeting to debate with picturesque phrase and elementary example the expenditure of town funds. In the rural sections of that part of the country, such assemblies are still to be found.

A New Englander tells of such an assemblage: "The Moderator . . . bangs down his gavel promptly at 2 P.M., and the meeting starts off with Article 1 on the warrant. Up in the front seats are a group of 'leading citizens' who introduce most of the business and argue on the motions. . . . So article after article comes up, with a chance for every citizen present to take a hand." Article 21, pertaining to alterations in the high school building, begins the trouble. The School Committee asks for $125,000, while the Finance Committee of the town recommends only $2,500. "Finally, the elaborate plans for alterations are snowed under, and a committee is appointed to see how the really essential work can be accomplished at a minimum cost, and report later on." As soon as the meeting is adjourned, tellers begin counting the ballots for town officers. By ten o'clock it will be known "who has won the contests for Town Clerk, for Selectman, and for the School Committee. Telephones will buzz all over town, and to-morrow a new year of town government will be begun." [2]

No governmental institution can be static. The essence of government is its elasticity and adaptability to kinetic social conditions. Among the influences playing upon the

[2] T. M. Banks, "Our Town Meeting," *The Atlantic Monthly*, CL, 1932, pp. 382-383.

institution of town government are expansion of population, diversification of racial strains, and demand for more services. These modern conditions have produced modifications in the New England town. One of these is limitation of the town meeting. Under this plan, delegates are chosen from precincts. Any voter may attend town meeting and may enter into debate, but only delegates may vote. While the limited town meeting was first tried in Newport, Rhode Island, it has been most widely used in Massachusetts, Brookline being perhaps the most conspicuous example.[3] The limited town meeting retains a modicum of direct democracy in that the ordinary voter may still rise to debate, even though his power to vote has passed to a representative council. It attempts to fuse representative and direct democracy.

In some New England towns, dissatisfaction with the performance of administrative functions has brought about the appointment of town managers. New England has not been carried away by new forms of government. The city manager plan made little headway there. The use of a manager by some New England towns rests upon outstanding need rather than upon a bent toward the managerial system. When the existing medley of town officers, boards, and commissions failed to handle administrative services properly, a few towns in Massachusetts and Vermont resorted to managers. In spite of this innovation, the majority of New England towns are still governed by the town meeting, the selectmen, and a group of admin-

[3] Cf. J. F. Sly, *op. cit.*, Chap. VII.

istrative officers, boards and commissions. Tradition, civic spirit, and strong finance committees have done much to gloss over glaring structural defects.

The Township-Supervisor System

The second type of local rural government in the United States is one that may be described as the township-supervisor method. It exists in New York, Michigan, Illinois, and Wisconsin. County and township both exist as organized political units. This is called the township-supervisor type because each township is represented on the county board by a supervisor. The boards of supervisors are large.[4] Both the county and the township in this type of local government elect a great many separate administrative officials, such as the county clerk, attorney, register of deeds, sheriff, and township officers. There is no chief executive.

Less than fifty years ago, the township-supervisor type of government was thought to have effected an almost perfect balance of town and county. In 1889, it was called "the highest type of local organization in the United States: a vigorous town government possessing all necessary means of self-help, coöperating with, and in some measure dependent upon, a strong county administration." [5]

[4] In Illinois, 17 southern counties do not have township organization. They have a county board of commissioners. Wisconsin by statutory option permits counties to adopt a small board without township representation. This has been utilized in only a few counties.

[5] G. E. Howard, *op. cit.*, p. 111.

In Michigan, where the township-supervisor system flourishes, the township is the primary unit. The state constitution decrees that, "Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law." [6] The constitution requires that each organized township elect annually a supervisor, clerk, commissioner of highways, treasurer, not more than four constables, one overseer of highways for each highway district, and not more than four justices of the peace.[7] The state contains more than twelve hundred of these miniature republics.

Although the townships have lost some of their functions to the county, they are still designated as bodies corporate by the constitution and only a constitutional amendment can decree their demise. The constitution stipulates in Michigan that the county board be composed of one supervisor from each organized township and that the cities shall have such representation as may be provided by law. No optional plan is available. Every one of the eighty-three counties of Michigan must have such a county board. The representation of cities is not in proportion to their size. The legislature has so fixed the representation of cities that the larger the city, the smaller its proportionate representation upon the county board. For example, cities of less than 3,000 population have two supervisors on the county board, whereas cities of 80,000 to 100,000 population have only twelve. In the industrial

[6] Michigan, *Constitution*, Art. VIII, Sec. 16.
[7] *Ibid.*, Art. VII, Sec. 15, and Art. VIII, Sec. 18.

counties of southern Michigan the representation of townships and cities results in a sorry situation. In the urban counties the boards vary in size from thirty to fifty members, while Wayne County, which contains the city of Detroit, has a board of 141 supervisors. In general, the cities lack proportionate representation. In Michigan there are townships of less than 1,000 population, each having a representative on the county board. In the same county there are cities which have for a large proportion of their population only one representative for every 10,000 people.

The township-supervisor system likewise results in large county boards in the populous counties of New York, Illinois, and Wisconsin. These large boards are miniature legislatures. They remain as cumbersome instrumentalities in an age when municipal councils are reduced in size. Such large boards might be necessary if they were engaged in fundamental legislation. County supervisors, however, deal chiefly with administrative and technical problems. For these purposes the county board need not be large and unwieldy. Large county boards are more onerous for the taxpayer than small county commissions.

The findings of M. Slade Kendrick as to the average cost per session of large boards of Michigan, Illinois, and New York, as compared with the small boards of Iowa, Montana, Kansas, Ohio, and Indiana, present damaging evidence. He computed the average cost of sessions of county boards in these states, and found that large boards were more expensive than small in average cost per session. There was considerable difference between the cost of

large and small boards in counties below 20,000 population; but the difference was even greater in counties with bigger populations. This was due to the increased number of supervisors. "Finally, in counties with populations of more than 80,000, the lowest average cost per session for large boards is $176.41, and the highest is $846.19. In counties in the same population class but with small boards, the average cost per session varies from $37.64 to $69.20." Mr. Kendrick held that the principal cause "for the difference between the average cost per session of large and of small county boards is the difference in the average number of supervisors in each population class." [8]

The relative efficiency of large and small boards is a matter of opinion. The small boards hold more sessions than the large ones, and thus devote a greater amount of time to the county's interests. The members of a small board of three to five can afford to meet more frequently than a large board without prohibitive expense. This spells closer intimacy with county problems. There is a sense of individual responsibility, lost in the shuffle of a large board. Responsibility can be pinned upon members of a small board, voters can follow their activities more readily and judge accordingly at elections. Supervisors elected from townships and cities tend to have the interests of their particular districts at heart, rather than those of the whole county. These large boards often fall into

[8] M. S. Kendrick, "A Comparison of the Cost of Maintenance of Large and of Small County Boards in the United States," Cornell University Agricultural Experiment Station, *Bulletin No. 484*, 1929, pp. 32-33. Mr. Kendrick's figures were based chiefly upon the year 1926.

urban and rural blocs, an alignment which does not facilitate constructive action.

In the township-supervisor states, as in others, the practice of electing a large number of independent administrative officers prevails. The long ballot is one of the earmarks of county government. Every two years in the typical Michigan county, the voters elect a sheriff, county clerk, county treasurer, register of deeds, prosecuting attorney, county surveyor, and drain commissioner; and every four years, a county school commissioner. Each organized county elects biennially coroners and circuit court commissioners. The county supervisors from the townships are picked in the annual spring elections. A majority of the counties impose the additional burden of voting for members of the board of county road commissioners. The last straw for the camel's back in some counties is the selection of a board of county auditors. Such a multiple-ring circus of elective officials defies the intelligence and deadens the interest of voters. What private citizen, absorbed in the struggle of earning a living, has time even to learn the names of all the candidates? The voters' only guide is the party label, and this too often includes the bad with the good.

Civic organizations, attempting to aid the voters by endorsing candidates, are sometimes at a loss when confronted by the multitude of aspirants for elective county posts. In Wayne County, Michigan, more than six hundred candidates were on the primary ballots for federal, state, and local offices in the 1932 primary. When it came

to the endorsement of candidates for county offices, the Detroit Citizens' League threw up its hands. William P. Lovett told this organization that: "Because of the difficulty of making intelligent choice among large numbers of apparently qualified candidates for such offices as County Coroner, Drain Commissioner, etc., your committee, moved also by the belief that some should not be elective and others should be abolished, in many cases makes no distinction among candidates." [9] Much of the criticism of the primary system would be tempered if many positions now elective were made appointive.

The slate of elected officers is the nucleus of the courthouse group, an important part of the state machine. County officers are the shock troops of national and state party organizations. Non-partisanship in county administration will be impossible so long as the long ballot of county officers continues.

Michigan does not stand alone among the township-supervisor states in direct election of a host of county officers. The situation in New York is parallel. The Memorandum submitted by the Institute of Public Administration to Franklin D. Roosevelt in 1932 decried the tremendous number of independently elected county and town officers in New York State, calling them the regular army of occupation. In New York, "In county and town governments alone there is a vast army of about 15,000 officials, most of whom are elective and have constitutional status. These include in the counties, chiefly county

[9] Quoted in *The Detroit Free Press*, Sept. 5, 1932.

judges, sheriffs, surrogates, county clerks, registers, district attorneys, coroners, county attorneys and commissioners of welfare; and in the towns, supervisors, town clerks, justices of the peace, assessors, tax collectors, highway superintendents, constables and welfare officers. These paid officers with minor exceptions are found in all counties and towns. They constitute what may be called the regular army of occupation. Beside this army of occupation there is an even greater corps of militia and 'home guards,' paid and unpaid, part time and whole time, elective and appointive, representing the police, lighting, fire, sewer and other town improvement districts, and the school districts, with their boards, superintendents, clerks, and teachers."[10]

The Institute went on to illustrate what this meant in a specific office. Excluding the counties within New York City and Westchester and Nassau Counties, there were approximately 11,000 tax collectors for 911 towns, 461 villages, and over 9,000 school districts. The average density was about twelve collectors per town. Yet these officials existed to collect only one-sixth of the property taxes levied for all purposes within the state. Governor Roosevelt, in bringing the problem of county and town government to the attention of the legislature of the state by a special message on February 29, 1932, asked: "Can any of us square it with our consciences to permit such a state of affairs to continue much longer when the power to find a

[10] Institute of Public Administration, "The Reorganization of Local Government in the State of New York to Meet Modern Conditions," 1932, pp. 1-2.

remedy lies in your hands and only in your hands?"[11]

In 1933 the New York State Commission for the Revision of the Tax Laws in view of the heavy tax burden in local units proposed basic readjustments. The Commission pointed out that a simplified county government with a small board of commissioners and an appointive manager serving as a chief executive necessitated a constitutional amendment. As a basic long term program the Commission recommended that the legislature should have power: to establish optional forms of county government; to transfer functions from the town to the county and from the town and county to the state; to zone the state and authorize the elimination of local government machinery in wilderness areas; to consolidate counties; to provide for city-county consolidation; and to permit transfer by contract of functions from one local unit to another. The Commission recommended further that the county should have power: to draft and adopt a charter for its organization and government; to adopt an optional form of government established by the legislature; and to carry on some functions over its entire area, including municipalities by contractual arrangement with such cities or by permanent transfer of municipal functions to the county pursuant to a referendum.[12] This long term program illustrates the problems of local government particularly in the township-supervisor states where large county boards, di-

[11] *The New York Times*, March 1, 1932.

[12] New York State Commission for the Revision of the Tax Laws, "Depression Taxes and Economy Through Reform of Local Government," 1933, p. 48.

rectly elected administrative officers, and overlapping units of government create a complex puzzle for which there is no one sovereign remedy.

In the county government structure of New York, Michigan, Illinois, and Wisconsin the unwieldy boards of supervisors and elective administrators are common defects. The circle of independent officers elected by the people necessarily precludes any chief executive. Each has a direct mandate from the people, and considers himself a law unto himself. Although he may be dependent upon the county board for appropriations, he is practically omnipotent in the administration of these funds. The township-supervisor system is not the only type which uses the long ballot principle, but the distinguishing feature among the township-supervisor states is the large county board, selected from townships and cities. New York, Michigan, Illinois, and Wisconsin have the questionable honor of being the last states to retain this relic of the Colonial period.

The Commissioner Type

The third major system of local rural government, located in a triangular region from New Jersey to Oklahoma and the Dakotas, is the commissioner type. The commissioners are the members of the county board. As in the township-supervisor states, a conglomeration of elective positions prevents centralization of authority in any chief executive. Although the township is not the unit for electing the commissioners, both townships and counties exist

in this system. Since the township is not represented on the county board, there is no direct link between them, and gaps appear in some of the commissioner states in the organization of the smaller unit. In Oklahoma, less than one-half of the counties possess townships; in Missouri, less than one-fourth, and in Nebraska, less than one-third. North and South Dakota have some townships organized only for school purposes. In the other states of the commissioner group—New Jersey, Pennsylvania, Ohio, Indiana, Minnesota, Iowa, and Kansas—townships generally exist. The commissioners are elected at large as in Ohio, or from districts as in Minnesota, or by a combination of both methods as in Missouri.

There are, naturally, exceptions to this general rule. New Jersey, for example, has been classified among the commissioner states because a majority of its counties have small boards of freeholders of three to nine members elected at large. A minority of the counties of this state retain large boards of freeholders with twenty to thirty-three members elected from townships, boroughs and cities. In Nebraska, counties with township organization may elect their governing bodies from supervisor districts or from townships. Indiana uses a system of dual boards. A county council has fiscal powers, while a county commission serves as an executive body. It has been suggested by the Indiana League of Women Voters that these boards should be replaced by a strong-mayor type of government, including an elected council and county administrator. An effective reorganization of this type would require

the elimination of some county officers by constitutional amendment.

The typical county board of the commissioner states is a small commission of three, five, or seven members elected at large or from large districts. Although the township is not used as a representative district, many of the states of this third group elect commissioners from districts to satisfy demands for local representation on the governing boards of counties. However, the small number of commissioners makes possible informal conduct of their sessions, suited to the convenience of themselves and of the public. It is more like a board of directors than the county legislatures of township-supervisors.

In Minnesota, each county has a board of commissioners, generally five in number. For purposes of electing commissioners, the counties are divided into single member districts. This means the division of the typical county with five commissioners into five election districts, by action of the county board. A county commissioner must be a resident of the district from which he is elected. His term of office is four years. The county commissioners constitute theoretically a board of directors of the county. But their work as a unit is hampered because they must deal with a group of independently elected officers, such as the county auditor, treasurer, attorney, sheriff, coroner, register of deeds, court commissioner, clerk of court, surveyor, and superintendent of schools. The powers of these officers, and oftentimes their salaries and fees, are

fixed by state law. They can be removed only by the governor or by judicial action. With these many officials acting within their own little spheres of authority, county government becomes not a unity but a disunity.

A monograph on county government in Minnesota informs us that, "The county board has a check upon the work of some county departments through its control of appropriations and expenditures. . . . Purchases may not be made, or claims allowed, without the board's consent. In certain cases, also, the board may fix official salaries within established legal limits, and thus may wield some control over even elected officers; and it has also, by statute, the power to fill vacancies in the principal elective county offices. In most counties its power over space in the courthouse is also unquestioned, although it must make some provisions for all the important offices. These powers, together with the right to bring judicial action against certain county officers in cases of alleged violation of law, almost sum up the authority of the board over other county offices." [13] While the county commissioners have these indirect methods of controlling county officers, the direct authority to hire and fire is lacking. How would a business corporation make a success of its affairs if the board of directors had to deal with a series of officers directly elected by the stockholders and subject only to indirect control by the board? Centralized responsibility is a necessity in business and government. Unfortunately,

[13] William Anderson and B. E. Lehman, "County Government in Minnesota," 1927, pp. 33-34.

Minnesota is by no means an exception that proves the rule among the commissioner states.

The same perplexing diffusion of power appears in Ohio, another commissioner state. There the voters elect three county commissioners from the county at large for a four-year term. In Ohio, as in Minnesota, the county commissioners lack appointive authority over the major officers. They must deal not with a group of subordinates, but with independent officers whose mandates like their own come directly from the people. The major responsibility for county action may rest with the three commissioners, but the constitution requires that all county officers be elected. The result is a long ballot for the selection of an auditor, treasurer, recorder, surveyor, prosecuting attorney, sheriff, coroner, clerk of courts, probate and common pleas judges. As the Ohio Institute summarizes the situation, "Contrary to the established practice in private business and in other governmental units, the county has no chief executive officer. Where the city has its mayor or manager, the school system its superintendent and the private corporation its president or manager, there is no body or official in the county system to whom the various officers are responsible and who can supervise and direct their work or enforce coöperation among them."[14] Of course, the county commissioners can exert considerable influence through the power of the purse; that is, by the

[14] The Ohio Institute, "County Organization and Government in Ohio," 1932, p. 9. This study was handled for the Institute by R. C. Atkinson and C. H. Mayhugh.

power of the commissioners to make or withhold appropriations for county activities. But, lacking the power to select or remove these independent officials, there is no decisive weapon to enforce their decisions. Commissioners must use gloved hands when dealing with administrators who, like themselves, possess mandates from the people.

The same enigma confronts the commissioners in the state of Missouri. There the county board is known as a county court and the commissioners are called judges. The term "county court" goes back to the territorial period when the county business was handled by a court of quarter sessions which had administrative as well as judicial functions. One of the county judges is known as the presiding judge, and the other two members are associate judges. The presiding judge is elected from the entire county, while the associate judges are elected from districts fixed by the county court. Essentially, it is a board of county commissioners with one member elected at large and two elected from districts. The county judges of Missouri are in no more advantageous position than the county commissioners of Minnesota and Ohio to cope with the administrative officers of the county: county clerk, circuit clerk, recorder of deeds, assessor, collector of revenue, treasurer, probate judge, public administrator, prosecuting attorney, sheriff, surveyor, coroner, and superintendent of public instruction. These are all elective. Even the legislature cannot change the relationship of some of these officers to the county court or commissioners, for they are named and their functions designated briefly in the con-

stitution of the state. The county board in Missouri as elsewhere lacks the ability to control those who are supposedly under its supervision inasmuch as it does not appoint them and cannot remove them on its own responsibility with the one exception of the assessors. "Any other elective official can be removed only upon being convicted, in the circuit (or criminal) court, of a crime connected with his official duties. Removal by a judicial process, as a means of controlling a ministerial officer, is cumbersome, expensive, and ineffective as compared with removal by an administrative body." [15] The remedy for this situation and all similar ones is the grant of power to the county board or to a manager whom the board controls to appoint and remove all the important county officers that perform administrative duties subject to the supervision of the board. This is more easily said than done, particularly where these administrative officers are protected by their constitutional position and only a constitutional amendment can accomplish a reform in their method of selection.

In Iowa, another commissioner state, the county board is made up of three members unless the people vote to increase the number to five or seven. The members of the board are elected for a three-year term. In approximately one-half of the counties of the state the supervisors are selected from the county at large. In the other half they are elected from districts. Here again the relation of the county board to administrative officers is typical,

[15] W. L. Bradshaw, "The Missouri County Court," University of Missouri Studies, VI, No. 2, 1931, p. 80.

for "many of the officers who carry on the work of the county, supposedly under the direction of the county board, are not appointed by that body but are popularly elected. In theory all county officers are responsible to the board of supervisors but that is not the case in practice because the method of selection makes it impossible for the supervisors to exercise effective control. The effect of this condition is to do away with responsibility to the board." [16]

The small county commission is not a panacea. Yet it is undeniably an improvement over a large board of township and city supervisors. It makes possible closer contact between board and officials. A small commission can meet more frequently, and become more conversant with local problems at less expense than the large board. However, if the commission cannot control directly the county officials over whom it presumably has jurisdiction, the full benefit derived from its intimacy with county affairs is lost. The commissioner states are better off than the township-supervisor states in that they do not have to support large boards. But the relationship of county board and administrative officers is no better articulated under one form than the other.

The County in the South and Far West

A fourth major system of local rural government covers the South and the West. The township exists by name in some of these states, but only as a judicial or administra-

[16] Iowa Applied History Series, "County Government and Administration in Iowa," The State Historical Society of Iowa, 1925, p. 21.

tive district rather than as an organized body politic and corporate. Here the county is paramount. Townships exist in Arkansas, California, Montana, and Nevada primarily as judicial districts. Districts designated as townships appear in North Carolina and South Carolina as holdovers from the Reconstruction Period. In the remaining states of this group there is an array of primary districts within the counties with a diversity of purposes and functions. Election precincts are found as units within the counties of Alabama, Colorado, Florida, Idaho, Maryland, New Mexico, Oregon, Utah, Washington,[17] and Wyoming. Magisterial districts exist in Kentucky, Virginia, and West Virginia. Tennessee has civil districts; Mississippi, beats; Georgia, militia districts; Delaware, representative districts; and Louisiana, police jury wards. Justices' precincts and commissioners' precincts prevail in Texas, while Arizona has election precincts and justice precincts within the county. Administrative districts having no taxing body of their own are not on a par with organized townships in the township-supervisor and commissioner states. Measured by the New England town or by the township of the Middle West, they are inconsequential.

In this fourth category the county is the all-important unit. Among the Southern states, the county boards vary greatly in size. In Tennessee, the conventions of township-supervisors in New York, Michigan, Illinois, and Wisconsin are rivaled. J. W. Manning found in thirty

[17] Spokane and Whatcom Counties in Washington have towns as primary divisions.

counties of Tennessee that the average number of members of the county court was twenty-four and that the size ranged from ten to fifty-two members. From this study he concluded that the county court (board) in Tennessee "is a rather large body, and since it is practically impossible for a large body to function successfully without leadership, the law provides that there shall be a steering committee, called the finance committee or the committee on ways and means, composed of three, five or seven persons who are members of the court." [18] In Arkansas, the board ranges from some twenty to fifty members. In Kentucky, on the other hand, the boards have only four to nine persons.

In the South, the method of selecting members of the county boards varies as does their size. In Tennessee, Arkansas, and Kentucky, the rule is to elect the members from districts. In nine or ten counties of Kentucky, three commissioners elected at large serve with the county judge. In the remaining counties, the county board or fiscal court, as it is known in Kentucky, is made up of the county judge and justices of the peace, three to eight in number elected from districts. In Tennessee also the court is composed of justices of the peace. The constitution of Tennessee requires that two justices be elected from each district within the county, and that the district containing the county seat elect an additional justice.[19] The General Assembly is

[18] J. W. Manning, "Governance in Tennessee Counties," *Southwestern Political and Social Science Quarterly*, XI, 1930, p. 175.

[19] Tennessee, *Constitution*, Art. VI, Sec. 15.

authorized to district the counties, so that the whole number in a county shall not exceed twenty-five, or four for every one hundred square miles. This means a type of precinct representation upon the county board not unlike that which prevails in the township-supervisor regions. In Arkansas, where the justices of the peace also serve as a fiscal board of the county, they are selected from townships, each township having at least two.[20] The county boards in these three states are a survival of the English practice of using justices of the peace in local administration.

A survey by J. W. Manning analyzes information obtained from justices of the peace in 84 counties of Kentucky. The average age of the 421 reporting was approximately fifty years. More than 76 per cent of 427 reporting had held no other public office. Some 87 per cent of 422 reporting had only a common school education. Approximately 78 per cent of 446 reporting were farmers. The average years of service of 450 justices was 4.85, the median two. In conclusion, Mr. Manning observes: "There is no real justification for the retention of the English thirteenth century system of county government in the Kentucky of the twentieth century. What may have been ideal for the age of chivalry is not suitable for the modern age of machinery." [21] The substitution of commission government for the fiscal court of justices and

[20] Arkansas, *Constitution*, Art. VII, Sec. 39.

[21] J. W. Manning, "Kentucky Justices of the Peace," *American Political Science Review*, XXVII, 1933, p. 93.

minimum qualifications for members of the fiscal courts have been suggested as two possible methods of improving county boards in Kentucky.

Louisiana also has large boards, although justices of the peace are not used for this. The governing board of the Louisiana parish (county) is called the police jury. Members of the police jury are elected from wards. The police jury "becomes unwieldy when it numbers over ten or twelve representatives. Election from wards does not in every instance secure the election of men whose vision extends as far as the parish." [22] The large police jury in Louisiana, elected from wards, is likewise analogous to the township-supervisor system in New York, Michigan, Illinois, and Wisconsin, and open to the same objections. In Mississippi and Virginia the county boards are small in size, but are selected from wards known as beats in the former and as magisterial districts in the latter. In still other Southern states, the board is small and elected at large. There is no uniform method of composing the county board in the South. In the Mountain States and the Pacific States, the county board is small in size, the most common number being five members. The boards are elected at large and by districts, the practice varying from state to state.

As in other sections of the United States, one obvious defect of county government in the Southern states is the separate election of administrative officials. In Mississippi,

[22] Taylor Cole, "The Police Jury in Louisiana," *Southwestern Political and Social Science Quarterly*, XI, 1930, p. 65.

the county board of supervisors, made up of five members elected from their respective beats, has to deal with a host of popularly elected county officials. The laws of the state require direct election of sheriff, assessor, county prosecuting attorney, cotton weigher, chancery clerk, coroner, circuit court clerk, justices of the peace and constables. School organization is carried on by an elected county superintendent, county school board, and common school district trustees. While the state constitution permits the legislature to prescribe the method of selecting county officers, so far the legislature has not seen fit to entrust the county board with power to appoint any of these important officials. In Mississippi, the survey of state and county government, completed in 1932 by the Institute for Government Research of the Brookings Institution, scores the confusion and diffusion of authority in the counties: "This situation is brought about by the fact that a considerable number of county officials are elected and are thus made independent of one another. . . . Partially shielded by a multiplicity of other officers for whom it cannot be held responsible and enmeshed in an elaborate and futile system of checks over which it has little direct control, the board of supervisors is in a position where its irresponsibility can take the form of neglect and extravagance or of equally damaging parsimony." [23]

Texas furnishes another example. There the county

[23] Institute for Government Research of the Brookings Institution, *Report on a Survey of the Organization and Administration of State and County Government in Mississippi*, 1932, p. 729.

board is composed of four road commissioners with the county judge as presiding officer. Other county officials include a sheriff, county attorney, tax collector and assessor, treasurer, surveyor and school superintendent, elected at large. The county commissioners, justices of the peace and constables are precinct officers. The commissioners' court has control of county affairs in name only, for each official is actually a law unto himself. As the Texas Industrial, Commercial and Agricultural Conference puts the case: "The voter has been given the right to vote for a whole list of minor clerical and administrative officials; and county government as an organization has become the greatest buck-passing agency ever developed. . . . We look to our commissioners' court to control the affairs of the county, but when we examine the law we find that the commissioners' court has the responsibility without the authority to do the job." [24]

In Alabama, a number of agencies known as the court of county commissioners, county commission, board of revenue, board of revenue and road commissioners, serve as the governing bodies of counties. However, "what may be termed the standard governing body in Alabama is the court of county commissioners which is established by general law for all counties and is composed of the judge of probate as principal judge and four elected commissioners. It is in the main a quasi-legislative and administrative body; but it is constituted by law a court of

[24] Texas Industrial, Commercial and Agricultural Conference, "A Plan to Reduce Public Expenditures in Texas," 1932, pamphlet, pp. 5-6.

record with inferior, special, and limited jurisdiction." [25] In this state, the 1932 survey by the Institute for Government Research of the Brookings Institution showed that there were approximately thirty-three independent boards, commissioners, and offices provided by law for counties. Although in most counties the actual number of independent units was less than this total, all the counties had the same diffusion of county administration "among separate agencies practically independent of one another." [26] Among the county officers chosen by popular vote were the following: judge of the circuit court, circuit solicitor, judge of probate, sheriff, coroner, clerk of circuit court, tax assessor, tax collector, county treasurer in counties over 55,000 population, county commissioners, constables, and justices of the peace.

The lack of an executive head is also a paramount factor in county government in South Carolina. There, too, the people continue to elect officers, including a legislative delegation of the county. This is composed of the state senator and members of the state house of representatives from the county, and ranges in size from two to eight members. "The legislative delegation itself," according to the findings of a recent survey, "can not enact laws, but it has by long established custom largely assumed the direction of county affairs. It helps to prepare the county supply bill, which purports to be a kind of operating

[25] Institute for Government Research of the Brookings Institution, "County Government in Alabama," 1932, p. 47.

[26] *Ibid.*, p. 89.

budget for ordinary county affairs for the year. . . . Such items and measures as the delegation, or the senator and a majority of the representatives, agrees upon the legislature passes as a matter of course, provided they are of a local nature." [27] In addition to the legislative delegation, a board of commissioners appointed by the governor or elected by the people serves as an administrative body. But this county board cannot be held responsible for administration since the typical county elects also a treasurer, sheriff, road supervisor, coroner, probate judge, clerk of court, register of mesne conveyance, master in equity and a superintendent of education. Although technically appointment to some of these positions is made by the governor, the actual practice is to select those chosen by the electorate. As a remedy it has been suggested that the county board should in all instances be chosen by the people and given power with few exceptions to appoint county officers. A further proposal is that the county board be given the option of appointing a county manager with full power to appoint and remove all county officers under the jurisdiction of the board.[28]

Indeed, the problem of the independently elected administrator in county government is all but universal. In West Virginia each county has ten constitutional officers and seven of these are elective. It has been said that the framework of county government in this state "offers lit-

[27] Columbus Andrews, "Administrative County Government in South Carolina," The University of North Carolina Press, 1933, pp. 35-36.
[28] *Ibid.*, pp. 217-235; Addendum by M. A. Wright.

tle opportunity for well-tried devices of efficiency and economy, such as integrated services, central planning, political leadership, personnel standards and business management." [29] As an immediate program of reform, permissive legislation has been urged to make the president of the county court a titular and administrative head of the county with power to appoint upon confirmation of the county court an executive clerk or accountant to serve as financial supervisor and business manager.[30]

A similar situation existed in North Carolina. In this state the small board of three or five members is general. Several counties have six or seven on the board, but this is unusual. The common practice is to elect commissioners at large. Here, direct election of important county officeholders has in the past prevented centering responsibility in the hands of the commissioners. But in 1927 the state legislature empowered counties to appoint a county manager or to impose upon the chairman of the board or any other qualified county officer the powers and responsibility of manager.

In the South and West, the tendency of the past was to multiply elective administrators. Recent optional legislation and home rule charters promise reversal of this. North Carolina does not stand alone in this respect. In 1931 Montana made a manager plan optional with counties. Virginia by its legislation of 1930 and 1932 has permitted

[29] J. F. Sly and G. A. Shipman, "A Working Plan for Local Government in West Virginia," 1933, p. 15.
[30] *Ibid.*, pp. 37-38.

counties to set up managers. In 1932, San Mateo County, California, adopted a home rule manager charter. For decades, independent county officers have remained calm and confident that they could defeat any moves to bring them under the power and authority of the county board or a chief executive. In some states they now hear thunder on the left, and they are by no means calm and confident. The long ballot in county government has been a bathetic American fallacy. People thought it brought government close to them when it really divided government into so many bits that no one could follow its vagaries.

While most of the states in the South and Far West have adhered to the fatuous policy of the long ballot in county government, they have not had to cope with a unit within the county like the township of the commissioner and township-supervisor states. Absence of the civil township in the South and West has partially eliminated the overlapping of governments which occurs both in the commissioner and township-supervisor states. That local rural government can be successfully administered without the organized township throws doubt upon the necessity of that unit in other regions.

CHAPTER IV

THE INFLUENCE OF MUNICIPAL GOVERNMENT

THE STRUCTURE of rural government in the United States has, with little exception, remained unmodified. This is not true of municipal government. Many cities have changed their governmental structure within the last three decades. It is now urged that recent developments in municipal administration be transplanted to the county. Success of the city manager plan, for instance, has increased the demand from certain quarters for county managers. This is a far cry from the views of the nation's founders. They felt that no good and much evil might come from cities.

The Rise of Cities

The very thought of large cities alarmed Thomas Jefferson. In 1782, he characterized them as sores on the body politic: "The mobs of great cities add just so much to the support of pure government, as sores do to the strength of the human body." [1] The body politic would to-day be a pitiful sight in Jefferson's opinion, for these "sores" have grown mightily in size and number. Even the ill wind that brought yellow fever blew good to some-

[1] "The Writings of Thomas Jefferson," P. L. Ford, ed., III, p. 269.

one, Jefferson felt, because it helped to discourage the growth of cities: "When great evils happen, I am in the habit of looking out for what good may arise from them as consolations to us, and Providence has in fact so established the order of things, as that most evils are the means of producing some good. The yellow fever will discourage the growth of great cities in our nation, & I view great cities as pestilential to the morals, the health and the liberties of man." [2] Need any further proof be adduced to show his deep-rooted antagonism to great cities?

A little more than one hundred years ago, Alexis de Tocqueville visited the United States and concluded, like so many visitors to our shores, by writing about us. His "Democracy in America" made short work of the cities. New York and Philadelphia he regarded as cities of considerable size and turbulent populations. "The United States," he wrote, "have no metropolis; but they already contain several very large cities. Philadelphia reckoned 161,000 inhabitants, and New-York 202,000, in the year 1830. The lower orders which inhabit these cities constitute a rabble even more formidable than the populace of European towns." After discussing the character of these urban populations and the riots that had broken out in Philadelphia and New York, he ventured a dire prophecy: "I look upon the size of certain American cities, and especially on the nature of their population, as a real danger which threatens the future security of the democratic re-

[2] "The Writings of Thomas Jefferson," P. L. Ford, ed., VII, pp. 458-459.

publics of the New World: and I venture to predict that they will perish from this circumstance, unless the Government succeeds in creating an armed force, which, while it remains under the control of the majority of the nation, will be independent of the town population, and able to repress its excesses." [3] Such was the melancholy view of this French observer in the third decade of the nineteenth century.

Less than fifty years ago Lord Bryce delivered in his "American Commonwealth" the oftquoted indictment: "There is no denying that the government of cities is the one conspicuous failure of the United States. The deficiencies of the National government tell but little for evil on the welfare of the people. The faults of the state governments are insignificant compared with the extravagance, corruption, and mismanagement which have marked the administrations of most of the great cities. For these evils are not confined to one or two cities. The commonest mistake of Europeans who talk about America has been to assume that the political vices which became notorious in New York are found everywhere. The next most common is to suppose that they are found nowhere else." [4] Lord Bryce was not willing in 1888 to issue a clean bill of health to any city of more than 50,000 population.

Rural government, however—and particularly the town or township—was highly respected by these commentators.

[3] Alexis de Tocqueville, "Democracy in America," Henry Reeve, translator, 3rd ed., 1839, pp. 288-289.

[4] James Bryce, "The American Commonwealth," The Macmillan Co., 1914 ed., I, p. 642. This work was first published in 1888.

Thomas Jefferson ardently advocated township government. "The article, however, nearest my heart," he wrote in 1816 in a letter to Samuel Kercheval, "is the division of counties into wards [townships]. These will be pure and elementary republics, the sum of all which, taken together, composes the State, and will make of the whole a true Democracy as to the business of the wards, which is that of nearest and daily concern." [5] Townships seemed to him no sores upon the body politic, but miniature republics of pristine purity. While Alexis de Tocqueville looked askance at New York and Philadelphia, in commenting upon New England's system of town government he said: "The village or township is the only association which is so perfectly natural, that wherever a number of men are collected, it seems to constitute itself." [6] Therein, apparently, was no rabble which might endanger the safety of the state. Lord Bryce, whose censure of municipal government had been biting, had a good word to say for rural administration. "Americans," he insisted, "often reply to the criticisms which Europeans pass on the faults of their State legislatures and the shortcomings of Congress by pointing to the healthy efficiency of their rural administration, which enables them to bear with composure the defects of the higher organs of government. . . ." [7]

No longer is municipal government black, and rural administration white. Both are open problems; both are

[5] "The Writings of Thomas Jefferson," H. A. Washington, ed., VII, p. 35.

[6] Alexis de Tocqueville, *op. cit.*, p. 55.

[7] James Bryce, *op. cit.*, I, p. 626.

freely criticized. As Lieutenant Governor John W. Carr of North Dakota said in 1931, people complain so much about "county governments, city and village governments, school government, and, yes, even township governments, one would almost think that the devil himself had broken loose, and that he was running them all." [8] While these complaints are well-nigh universal, the merits of certain trends in municipal government are generally accepted. Agitation for similar experiments in county government grows apace.

The City and the State

In Colonial times, boroughs, as the cities were known, received their charters from the English crown, indirectly, through the governor. After the Revolution, the state legislatures arrogated unto themselves the power to create and amend city charters. During the nineteenth century came an orgy of legislative meddling in municipal affairs and tinkering with individual municipal charters. To stop this, constitutional amendments were adopted in some states prohibiting special legislation or requiring general legislation as to cities. Ultimately, the municipal home rule movement made its appearance with Missouri in the vanguard. Since the initial action of that state in 1875, a number of states have been outstanding examples in applying the principle of home rule to their municipalities: California, Washington, Minnesota, Colorado, Oregon,

[8] J. W. Carr, "Pressure on Local Government for Large Expenditures," *The United States Daily*, Oct. 16, 1931.

Oklahoma, Michigan, Ohio, Arizona, Texas, Nebraska, New York, and Wisconsin.

The allotment of home rule powers to cities by state constitutions is by no means uniform. Although home rule amendments opened the door to experimentation in forms of city government, they avoided in large measure a determination of municipal powers in other than general phrases. Exact delineation of municipal powers is left to the courts when state constitutions extend to cities control over an undefined sphere of "municipal affairs." Not all home rule amendments attempt a constitutional grant of powers to cities. In Michigan the determination of most powers granted to cities under the home rule amendment still rests with the legislature.[9]

Home rule is now suggested to permit counties to experiment with the manager idea and other plans of government. Home rule for counties, because of their position as administrative subdivisions of the state, will probably be limited to the right to determine their forms of government. The movement for county home rule has not been as intensive as that for city home rule. California has, since 1911, been the only significant example of county home rule. In 1915, Maryland, by constitutional amendment, provided that any county or the city of Baltimore might adopt a home rule charter, but the only attempt to set up a county charter was unsuccessful. An

[9] For discussion of the municipal home rule movement, cf. H. L. McBain, "The Law and Practice of Municipal Home Rule," 1916. *The National Municipal Review* for 1932 contains a series of articles on "What Municipal Home Rule Means To-day."

Arkansas amendment of 1924 conferring some measure of home rule on counties was declared unconstitutional by the state supreme court because of procedural defects in its adoption.

Optional laws also enable cities to choose their own governments. Alternative forms have been legislated by many states, such as the weak-mayor and council, the strong-mayor and council, the commission, and the city manager plans. Cities are then allowed to select from these alternatives by local referendum. In the majority of American states, such optional plans cannot be created by the legislature for counties, because the constitutions minutely prescribe the form of county government. In a few states where it is legally possible, a leaf has been taken from municipal experience, and optional forms of county government established by legislative act. There are, for instance, optional county manager laws in North Carolina, Montana and Virginia.

Mayor and Council Government

Municipal government is also influencing the structure of rural government. The existence of a chief executive in cities in the person of a mayor or manager has led to demand for a similar head in the county. In the Colonial period the mayors of boroughs were often imposing in title and social position, but not in legal power. Early charters vested control of the borough in a council which included the mayor, aldermen, and common councilmen. The mayor as a member of the council was an officer with social

prestige and some political influence, but he was not like the modern mayor, paramount in local affairs. Control over administration was not vested in a group of department heads appointed by the mayor as it now is. The borough councils directed administration.[10] Municipal government has undergone many changes in structure since the American Revolution. First among these many revisions was the emergence, in the nineteenth century, of the office of mayor as one of preëminence.

The year 1796 is a milestone in the development of the American mayor and city council. In that year, amendments to the charter of Philadelphia set up a two-chamber city council. In the same year, the revolutionary charter of Baltimore created a two-chamber or bicameral city council. Each ward was empowered to select members of an electoral college which, in turn, selected the upper branch of the city council and the mayor. The latter had a qualified veto over the acts of the city council. He and the upper branch of the council divided the power to appoint administrative officials. The council nominated two individuals for each office; the mayor made the final selection. Influence of Federal and state models permeated this charter. It was the first of a long series of municipal charters from which emerged the American mayor of the twentieth century.

Under the Boston charter of 1822, the mayor was

[10] For a study of colonial municipalities, cf. J. A. Fairlie, "Municipal Corporations in the Colonies," *Essays in Municipal Administration*, 1908, Chap. IV.

elected directly by the people, but he was little more than the presiding officer of the board of aldermen, the upper branch of the city council. His direct election was indicative of the future power of that office. Josiah Quincy, the first elected mayor of Boston, made himself chief executive in fact, if not in law, by appointing himself chairman of important committees. He represented the entire electorate as no other official did, and succeeded in popularizing the office of mayor. Within fifteen years after the Boston charter, mayors were popularly elected in St. Louis, Detroit, Providence, Baltimore, Cleveland, and Chicago.

The development of the elective mayor during the nineteenth century was only one of many striking analogies to state and Federal government. The mayor was frequently armed with a veto power similar to that of the governor or President. City councils were commonly bicameral, with an upper and a lower house. Charters entrusted to the upper branch power to confirm or reject the mayor's appointments. As bicameralism waned and unicameral city councils took its place, this check upon the mayor's power of appointment was generally retained.

Contemporary municipal government loosely falls into four categories, known as the weak-mayor and council, the strong-mayor and council, the commission, and the council-manager types. Subjection of the mayor's appointments to confirmation or rejection by the city council is one prominent earmark of the weak-mayor and council form.

This to-day is the most ubiquitous form of municipal administration.

While the mayor and council form is divided between the strong- and the weak-mayor, this is not to say that all cities can be absolutely labeled in one group or the other. City charters travel the whole circle, from mayors who are virtual dictators to those who are subject to the preponderant influence of the council. Between the strong-mayor, on the one hand, and the weak-mayor, on the other, there are many shades of difference.

In the last decades of the nineteenth century, the so-called strong-mayor and council plan evolved, giving to the mayor alone the right to appoint administrative officials. This form concentrated responsibility in the hands of a chief executive.[11] The Tweed charter of New York City, in 1870, entrusted to the mayor the power to appoint heads of city departments. The shrewd political sense of Tweed was apparent in this charter. It established what the reformers had long urged—concentrated control in the mayor. Under the charter, Tweed had only to have at his beck one person—the mayor. The sound of revelry by night was heard both before and after the passage of the charter. It "was passed in the Senate on the afternoon of April 5, 1870, and Governor Hoffman, Tweed's man, signed it immediately. 'After Governor Hoffman put his name to the instrument,' wrote the correspondent of the *World*, 'he presented the pen with

[11] The mayor of Philadelphia had from 1799 to 1839 appointive authority without councilmanic confirmation.

which he signed it to Tweed, and Tweed spent the rest of the night in showing it to the thirsty crowd that swallowed the basket of champagne he opened immediately after the bill passed the Senate.' The Tweed charter was *carte blanche* for the members of the Ring to enter the city treasury with shovels and load their wagons with gold." [12] After the exposure of Tweed, public opinion revolted against the strong-mayor and council. Under the charter of 1873, New York returned to the weak-mayor and council government, with the mayor's power to appoint subject to the board of aldermen.

The strong-mayor and council plan went into eclipse until 1880, when an amendment to the charter of Brooklyn established it there. Seth Low, the first mayor under the amended Brooklyn charter, rendered the strong-mayor and council plan respectable. The mayor had "sole and exclusive power to appoint the successor of any commissioner or other head of department." [13] There was only one check upon him. If he failed to make a new appointment within thirty days after the expiration of the term of any officer, it constituted a reappointment of the incumbent of the office. Seth Low's administration was a notable one for Brooklyn and the future of the strong-mayor and council plan in the United States. He demonstrated what an honest and capable man could do as a "strong" mayor. This plan has since grown apace in favor, until it is now

[12] M. R. Werner, "Tammany Hall," Doubleday, Doran & Co., 1928, p. 185.

[13] T. H. Reed and Paul Webbink, "Documents Illustrative of American Municipal Government," The Century Co., 1926, p. 139.

one of the standard types of American city government.

The office of mayor enjoyed slow but persistent accretion during the nineteenth century. Not every city, of course, adopted either the strong- or the weak-mayor and council administration. The charters of many provided for direct election of mayor, councilors, and, in addition, the heads of different departments. The mayor was thus independent, but lacking in appointive authority. Yet in charter after charter the office of mayor gradually climbed to greater eminence. The example of larger cities, in entrusting appointive authority to the mayor, with or without councilmanic confirmation, had wide-spread influence. As the office waxed in power, the white light of publicity beat upon it until mayors received national note, and sometimes notoriety.

The mayoralty of a large American city is no light burden. It affords equal opportunity for public service or for patronage of low degree. Tom L. Johnson, as mayor of Cleveland, made an indelible impression upon the office. As a constructive leader, he fought mightily for a new day. He defined a good executive as "one who always acts quickly and is sometimes right." [14] American mayors come in all varieties: constructive, eccentric, malodorous, efficient, and deficient. There was "Golden Rule" Jones of Toledo whose theories of social well-being ran far in advance of the times. Mayor Gaynor of New York City allowed the people not one dull moment during his administration. Very different, but among the first rank of

[14] Tom L. Johnson, "My Story," 1911, p. 122.

New York mayors, was John Purroy Mitchel. City councilors come and go, but names of mayors remain with us. Compared with the mayoralty of the Colonial borough, the office has attained colossal proportions.

The duties of mayor range from the sublime to the ridiculous. In recounting the story of his work as mayor of Toledo, Brand Whitlock commented upon the "strange, inexplicable belief in the almost supernatural power of a mayor." By way of illustration, he wrote: "I have been waited on by committees—of aged men—demanding that I stop at once those lovers who sought the public park on moonlit nights in June; I have been roused from bed at two o'clock in the morning, with a demand that a team of horses in a barn four miles on the other side of town be fed; innumerable ladies have appealed to me to compel their husbands to show them more affectionate attention; others have asked me to prohibit their neighbors from talking about them." [15] In this enlightening passage, Brand Whitlock diagnoses popular opinion of the mayor's office.

In the crystallization of the mayor's position, the influence of the Federal model was at its height. Mayor and council government, with emphasis upon the mayor, loomed as the dominant type of city government. Twentieth century forms of municipalities—the commission and council-manager plans—were as yet unknown to the American people. But the fate of the powerful mayor

[15] Brand Whitlock, "Forty Years of It," D. Appleton and Co., 1914, p. 218.

was sealed in many cities with wide-spread adoption of the commission and council-manager forms in the twentieth century. In a majority of the cities, the office has held its ground, for mayor-and-council government has persisted, in spite of a tremendous popular swing in recent years to the commission and council-manager systems.

The Federal analogy, partly responsible for the predominance of the municipal mayoralty, never had any measurable influence upon county government. There an executive similar to the President, the governor, or the mayor has not arisen. County administration has been diffused among a welter of independently elected officers rather than integrated under a single authority. Cook County, Illinois, is one of the few examples of the influence exerted by the municipal mayoralty upon county government. There the office of county president has been established by state law. The county president is a member of the county board, but has a restricted veto power over it. He has, in addition, some appointive authority. "Through these powers, analogous to those given to the national, state, and city executives, the county president is made the responsible head of the county administration (so far as that is not under independent elective officers), and the county board becomes the representative organ for voting supplies and determining the general policy of the county." [16] A county president with appointive and veto powers is a rarity.

[16] J. A. Fairlie and C. M. Kneier, "County Government and Administration," The Century Co., 1930, p. 113.

Several attempts to introduce an executive officer analogous to the municipal mayor in the county of Westchester, New York, were defeated. The proposed Westchester County charter of 1925 provided for a county president similar to the mayor of a city. This county president was to be elected by the voters for a four-year term. His salary was fixed at $15,000. He was to appoint six out of the eight department heads. The charter empowered the president to see that all county officers faithfully performed their duties. The powers of the county board were restricted to legislative matters. This county president or mayor never came into being, for the people of the county defeated the charter by a vote of 34,216 to 28,941. It was the voters in the townships who defeated it; in the cities, it was received more favorably. A second charter, differing from the first in minor matters, was submitted in 1927, and it, too, was defeated by the people of the county.[17] While the attempt to create a county president was not the only reason for the defeat of these charters, it was a factor. The growth of the office of mayor in American cities has not had any penetrating influence upon the county.

During 1932, a county president or mayor was proposed for the County of Nassau in New York State. The Democratic Law Committee of the county prepared a charter providing for a strong county government, and the abolition of three townships and 185 special districts. An

[17] P. M. Cuncannon, "The Proposed Charters for Westchester County," *American Political Science Review*, XXII, 1928, pp. 130-143.

executive elected for four years and known as the county president would have eleven departments under his supervision. The president would appoint department heads, the comptroller alone being elected. They would hold office at the will of the executive. Seven members, elected from districts, would make up the county board with power to pass ordinances and appropriations. To become effective such a charter for Nassau County must be passed by the legislature of New York State, accepted by the governor, and submitted to a local referendum.[18]

So far, the county mayor scheme and attempts to create such an executive have been limited to urban and suburban counties. Without a major change in public sentiment, the introduction of an executive similar to the municipal mayor in the typical rural county seems remote. Yet, without such a mayor or manager, county government will continue as a headless and irresponsible organization.

The Commission Plan

It required a tidal wave to loosen municipal government from its mayor and council moorings. The plight of Galveston, Texas, after the disastrous tidal wave of September, 1900, led to the creation of a small commission to run the city. The commissioners wrought such wonders of rehabilitation, that national attention focused upon Galveston. The commission plan for a time swept the country. Its simplicity appealed to voters. The commissioners

[18] Cf. F. I. Haber, "New Charter Proposed for Nassau County, N. Y.," *National Municipal Review*, XXI, 1932, p. 658.

acted collectively as the city council, and individually as the heads of departments. Their plan broke the spell of Federal and state models.

The commission form of municipal government, as initiated in Galveston, must be distinguished from the commissioner type of county government. These similar terms refer to very dissimilar things. The commissioner type of county government is found in the region from New Jersey to Oklahoma and the Dakotas. Under it, the legislative council of the county is a small board of elective commissioners. They do not serve as heads of departments. The county officers, such as clerk and treasurer, are commonly elected directly by the people. Thus, it follows that a small board is elected to serve as council and an independent, additional group of officers is elected by the people to run the administration.

Under the commission form of municipal government, the same group of individuals serves both as a city council and as the administrative officers of the city. This commission form of city government has had some influence upon county administration. Municipalities have found under the commission plan that the merger of legislative and administrative duties in the hands of the same group is inherently defective. The individual who can control sufficient political support to be elected to the city council rarely has the training for expert administration. Conversely, the trained administrator cannot command the political backing necessary for his election. In one commission city, a harness-maker became commissioner of health;

in another, a barber became public utility commissioner. The butcher and the baker often make good city councilors, but they are not prepared to supervise the work of administrative departments. Again, the number of municipal departments must be made to correspond to the number of commissioners. There is no necessary equation between the proper number of city councilors and the proper number of administrative departments. Further, the commission plan places the power to appropriate money and the power to spend it into the hands of the same men.

The commission plan is, in a sense, a return to early Colonial practice. The city council becomes predominant; the mayor is all but reduced to the common level of the other councilors. He is simply one of their number, with a distinctive title and some influence as presiding officer. There is no chief executive. Power is concentrated in the group who act collectively as a council and separately as department heads. The commission plan is far removed from the check and balance principle of mayor and council control, in which the mayor by his veto can thwart the council, and the council by its power over appropriations can control the mayor and his heads of departments.

Attempts have been made to throw safeguards around the concentrated authority of the commissioners. Chief among the devices used were the initiative, the referendum, and the recall. Non-partisan election of the commissioners was used to decrease influence of party organization. Although other cities had previously employed these means to improve their commissions, Des Moines,

after 1907, according to Thomas H. Reed, received "exclusive credit for the origination of these devices, which she by no means deserved. The Iowa law was, however, brief, well-written, and combined all the reforms more perfectly than any of the other measures. Des Moines caught the value of her new government for community promotion purposes and made herself, for the time being, the most talked-of city in America. Henceforth, it was the 'Des Moines plan' which chiefly inspired legislators and charter-makers and left its mark on the form of government of hundreds of communities." [19] By 1910, ten years after the Galveston disaster, more than one hundred cities had commissions; by 1914, over four hundred. After that time, the plan lost steadily. As commission government declined, the city manager scheme came to the fore.

In county administration, the commission plan has had little influence. Yet, some applications of this type of municipal government have been made to counties. For example, Paul W. Wager tells of two counties of North Carolina with a commission form of government. In Buncombe and Jackson Counties there are three commissioners, each serving full time as the head of a department. "One is commissioner of finance, another is commissioner of highways, and the third is commissioner of institutions." [20] Alabama also furnishes several examples

[19] T. H. Reed, "Municipal Government in the United States," The Century Co., 1926, pp. 209-210.

[20] P. W. Wager, "County Government in North Carolina," The University of North Carolina Press, 1928, p. 92.

of the commission plan as used by counties. There, a local act of 1931 established in Baldwin County a commission to be divided into four sections: chairman and purchasing division, road and bridge division, finance and taxation division, and industrial and civic division. The commission was required to designate one commissioner for each division. In the same year, a county commission of three was created for Walker County, one to serve as chairman, another as commissioner of roads and bridges, and the third as commissioner of finance and audits. "In Jefferson County, a commission of three members is established. All of the members give their entire time to their official work; but there appears to be no provision of law for distribution of work among them." [21]

Some New Jersey counties also show the influence of the commission plan of municipal government, the board of freeholders administering county activities through a system of departments headed by individual freeholders. This plan has been called "a rough parallel to the commission plan for cities. Each freeholder is more or less independent in administering his particular department. Usually the departmentalization is carried to unnecessary lengths, in order to give each member a department. The Mercer County board, for example, has three departments in charge of highways—construction, repair and bridges." [22] The necessity of making the number of ad-

[21] Institute for Government Research of the Brookings Institution, "County Government in Alabama," 1932, p. 81.

[22] The Commission to Investigate County and Municipal Taxation

ministrative departments conform to the number of members of the governing body has been one of the defects of commission government in cities. Here the same flaw appears in county administration under the commission plan. These examples from North Carolina, Alabama and New Jersey demonstrate that there has been some application of the commission form of municipal government to county administration.

The Council-Manager Plan

One of the chief merits of the commission form was that it paved the way for the city manager plan. It broke the crust of tradition. People saw that a city did not have to have a mayor and council to exist. They also realized that a city council need not be a miniature legislature, that a small board of five or seven men could function as well. The city manager plan goes a step beyond the commission form. Instead of the city councilors acting as heads of departments, the councilors select a manager to superintend the city's administration. He, in turn, appoints the heads of the administrative departments. Responsibility for general policies is centered in the council; responsibility for the fulfillment of these policies by the department heads is lodged in the manager. The city council can hold the manager to strict accountability, for it has not only the power to hire him, but also to remove him. In brief, then, the people elect a council of popular repre-

and Expenditures, "The Organization, Functions and Expenditures of Local Government in New Jersey," 1931, pp. 73-74.

sentatives. The council hires, supervises, and controls, through its power to remove, a city manager. He is generally a well-paid, full-time expert selected on the basis of his training and capacity as administrator. The manager then appoints, supervises, and removes the heads of all departments, who in turn control the rank and file of the administrative employees.

About the time commission government reached the peak of its popularity, with wholesale adoptions, Dayton, Ohio, adopted the manager plan. The first city council under the Dayton manager charter took office in 1914. While the manager idea had been much discussed, and had received some recognition in a few cities of Virginia and the Carolinas before that time, its success in Dayton was the real beginning of the city manager movement in the United States. The fact that more than four hundred cities now have the manager plan within less than twenty years after the Dayton experiment is adequate evidence of its popularity. Throughout these years, the conviction has grown that the manager plan is the greatest advance by American cities since the Revolution. Demand for its transposition to counties is now heard, and North Carolina, Virginia and California actually have made some application of it to their counties. It is apparent that the manager plan may exert an influence upon the county's government in the future. It is by all odds the greatest contribution yet made by this country to the science of local administration.

Municipal Influences on County Government

Without the demonstrated feasibility of municipal home rule, county home rule would probably be unheard of. Municipal home rule was an essential predecessor of the county home rule movement. This appears to be true, since the county, as an administrative district of the state, would have little chance of obtaining the right to determine its own governmental structure if city charters were still universally granted by state legislatures. The case for county home rule is not as clear as that for municipal home rule. This is due to the distinction in their legal positions. The city is a public corporation organized primarily to serve the people of a small area; the county is generally a quasi-corporation organized primarily as an administrative subdivision of the state. For this reason, county home rule will not be as extensive or as intensive as municipal home rule. But there is no denying that it is desirable to permit counties home rule in determining their governmental structure, and that municipal home rule has had an influence toward this end.

Changes in the governmental structure of municipalities likewise offer much for county government. The existence of a municipal chief executive, either a mayor or a manager, makes apparent the need for a similar individual in the county. Had the reform of county government been an issue in 1910, as it is to-day, it is quite conceivable that the commission form of city government would have

been adopted widely in county administration. County rehabilitation coincides with the heyday of city managership. The tendency now is to take over the manager plan or some variation thereof for county use.

CHAPTER V

THE COUNTY AND THE STATE

WHEN A COUNTY is permitted to draft a charter for its government, it is said to have home rule. This right is granted to counties by few states and denied by most. In California and in Maryland county home rule has been established by constitutional amendment. In some states where home rule has not been attained, constitutional amendments have authorized the legislature to provide optional forms of local rural government. These become effective in individual counties by favorable action of a majority of those voting thereon at a local referendum. Such optional laws have been set up, for example, in North Carolina, Montana, and Virginia. But in the majority of states, constitutions so meticulously prescribe the structure of county government that the county inhabitants have no say about the type of organization which rules them. The legal position of the county in the state and vested interests complicate any movement for home rule or optional laws. The relationship of the county to the state is an intricate one.

The Legal Status of the County

The county has a subordinate legal position in the state. Counties are created by the state and may be abolished by the state. A state has, in reality, only a single government. All the powers reserved to it by the Federal constitution may be exercised as the people of the state decide through their constitution and laws. The state determines the powers and duties of counties, cities, and other local governmental units. There is no inherent right of local self-government for counties or cities. These units have only the powers extended to them by the constitution and by the laws of the state. Because of constitutional restrictions, state legislators rarely have a free hand to shape the government and the powers of counties. The county's legal position is a helpless and a hapless one, for the people have little voice in deciding upon the type of county government under which they must live. It is too often dictated by the dead hand of the past in outmoded constitutional stipulations.

The county, however, has another aspect. There are two sides to its status. It is a unit of local self-government and an administrative subdivision of the state. In the past, its aspect as a state agent has overshadowed its position as a unit of self-government. Within its territorial limits, the county acts as an agent for the execution of vital state functions. Yet the interests of the state are not such as to require that every county be fettered with a regressive type of government. In the typical state,

constitutional obstructions bar the legislature's way in changing the form of county government. Once these barriers are overcome by amendments permitting the optional law system or home rule charters, voters may then exercise their will in altering the governmental structure of the county. Without opportunity to act, there is small interest in the question of better types of government.

The courts generally classify counties as quasi-corporations. In the majority of states, they draw a distinction between counties as quasi-corporations and cities as municipal corporations. This point was clearly made in an early case in Ohio which has since been generally followed: "Municipal corporations proper are called into existence, either at the direct solicitation or by the free consent of the people who compose them. Counties are local subdivisions of a state, created by the sovereign power of the state, of its own sovereign will, without the particular solicitation, consent, or concurrent action of the people who inhabit them. The former organization is asked for, at least assented to, by the people it embraces; the latter is superimposed by a sovereign and paramount authority. A municipal corporation proper is created mainly for the interest, advantage, and convenience of the locality and its people; a county organization is created almost exclusively with a view to the policy of the state at large, for purposes of political organization and civil administration. . . . With scarcely an exception, all the powers and functions of the county organization have a direct and exclusive reference to the general policy of the state, and are, in

fact, but a branch of the general administration of that policy." [1] Although this is the prevailing view of the county, a few states have classed them as municipal corporations. In the scale of corporate existence, counties rank lower than municipal corporations. "They are merely public quasi-corporations, political subdivisions of the state, and act in subordination and as auxiliary to the state government." [2]

Constitutional Limitations

Counties are subject to the state legislature, but the legislature's actions are circumscribed by the provisions of the state constitution regarding county affairs. Many state constitutions are so encumbered with such specifications that even the legislators cannot materially modify the structure of counties. Constitutions of approximately one-half the states contain detailed articles prescribing direct election by the people of administrative officers of the county. The implications of these articles are far reaching. The legislature cannot then provide, as an optional form, a manager with power to appoint administrative officials.

This was demonstrated by the report of Howard P. Jones to the National Municipal League Committee on County Government in 1932. His analysis showed: "The first and most serious barrier to a change in the form of

[1] Hamilton County *v.* Mighels, 7 Ohio State 119 (1857).

[2] Eugene McQuillin, "The Law of Municipal Corporations," 2nd ed., 1928, I, p. 399.

government consists in the large number of elective county officials who are securely fortified by being specifically provided for in the state constitutions. . . . Seven states are free from this complication: California, Montana, Minnesota, Nebraska, North Carolina, Rhode Island (where counties serve only as judicial districts), and Virginia. In fourteen others, the list of elective officials in the constitution is not formidable, and change in the form of government could be accomplished to some purpose. Alabama, Connecticut, Georgia, Iowa, Kansas, Louisiana, Maine, Massachusetts, Missouri, New Jersey, New Mexico, Oklahoma, South Carolina and Utah could achieve much by way of reorganization even without the deletion of the favored officials from the ranks of those chosen by popular vote. . . . In the remaining twenty-seven states, however, the long lists of elective county officials in the state constitutions are rugged barriers to a change in the form of government." [3]

Direct election of administrators does not necessarily ensure democracy. The county board which levies taxes and appropriates funds must, of course, be elected. It does not follow that all the administrative officers should also be chosen by the people. These officials should be appointed and removed by the county board or by a responsible chief executive, rather than elected. The vote-getter is not often the best administrator. We trust the

[3] H. P. Jones, "Constitutional Barriers to Improvement in County Government," *National Municipal Review*, XXI, 1932, pp. 525-526. For a digest of state constitutional provisions, see pp. 537-539.

President of the United States to appoint, with the consent of the Senate, the heads of the Federal administrative departments. Yet we hesitate to take the county clerk off the ballot and entrust his selection to a county chief executive. Administrative officials of the county elected by the people are subject only to periodic checks at elections and to the indirect control of the county board. Responsible administration does not follow when a large slate of officers can run their offices to suit themselves. It requires a specially equipped chief executive to pass upon the efficiency of county administrators. Yet the authorizing of such an executive is blocked by constitutional requirements of direct election for county officials. This situation results from the American penchant for placing in state constitutions many items that belong in the laws.

Besides fixing the manner of selecting office-holders, some state constitutions impose residential restrictions. The setting up of geographical limits on the eligibility of candidates for county offices has serious consequences. A county manager under such a constitutional requirement would have to be found among the residents of the particular county. This prerequisite nullifies the genius of managerial government: namely, that the manager be one who is especially trained and, therefore, not always available from local sources. Such constitutional strictures cause what has been called the "legal refractoriness" of county reorganization. State legislatures find themselves cabined, cribbed, and confined by constitutions.

Optional Laws

One remedy is a constitutional amendment empowering the state legislature to create optional systems of county government to become effective by local referendum. A constitutional amendment in 1928 entitled the Virginia legislature to draw up such options. The Virginia constitution of 1902 had provided specifically for many county officers, both elective and appointive. It required direct election of county treasurer, sheriff, attorney for the commonwealth, county clerk, and county supervisors. The legislature could not under that document establish a chief executive officer in the counties who would have power to appoint his administrators. This situation was remedied by the amendment of 1928 which opened the door to different forms of county government: "Notwithstanding the provisions of this article [i.e., for direct election, etc.], the General Assembly may, by general law, provide for complete forms of county organization and government different from that provided for in this article, to become effective in any county when submitted to the qualified voters thereof in an election held for such purpose and approved by a majority of those voting thereon." [4]

The Virginia legislature took advantage of this new power in the session of 1932, and enabled counties to select from two complete forms of organization, both differing radically from the type detailed in the constitution. These optional forms become effective in counties when submitted

[4] Virginia, *Constitution*, Art. VII, Sec. 110.

to the qualified voters and ratified by a majority of those voting thereon. A referendum may be held pursuant to the filing with the circuit court of the county or judge thereof in vacation of a petition signed by 10 per cent of the qualified voters of the county. In lieu of a petition, the county board may file with the court or judge thereof a resolution asking for a referendum. The petition or the resolution may request a referendum on both optional plans, or for a referendum on only one of the alternatives. The two options are known as the county executive form and the county manager form. Both options authorize the county board of supervisors to appoint a chief executive, known as the county executive under the former, and as the county manager under the latter. The real distinction between the two plans lies in the appointive authority of the chief executive. The county manager form gives the manager power to appoint administrative officers and employees. Under the county executive form, the board of county supervisors appoints, upon the recommendation of the county executive, the subordinate officials.

Virginia is one of the best examples in the United States of the process of overcoming constitutional drawbacks in county government. The amendment of 1928 made it possible for the legislature to establish optional forms; the General Assembly, in 1932, made it possible for counties to choose between their existing systems, either the county executive or the county manager form. Such a policy accords with the modern tendency to entrust legislatures to

act freely rather than to hedge them in with constitutional constraints.

Another example of the same process is found in North Carolina. Article VII of the state constitution calls for election of a number of officers: treasurer, register of deeds, surveyor, and five commissioners in each county. But it also gives the General Assembly "full power by statute to modify, change, or abrogate any or all of the provisions of this article, and substitute others in their place. . . ." [5] This section, which was added to the constitution in 1875, threw the problem of local government upon the tender mercies of the General Assembly. The value of this procedure was evident in 1927. At that time, the North Carolina law-makers passed an act to provide "Improved Methods of County Government." This act recognized two systems of government, known as the county commissioners form and the manager form. Thus Virginia and North Carolina, two states in which significant advances have been made in altering the governmental structure of counties, used the optional law policy.

Several other states have constitutionally recognized the optional law system, thereby enabling their legislatures to create alternative forms for counties. In Louisiana, the constitution of 1921 authorized the state legislature to establish optional forms of parochial (county) government as follows: "The legislature shall provide optional plans for the organization of parochial government, and any parish may change from one plan, so prescribed, to an-

[5] Except Sections 7, 9, and 13.

other, when authorized by a majority of the electors voting at an election held for such purpose." [6]

One year later, Montana recognized the optional law principle in county government by constitutional amendment. This permitted the legislative assembly by general or special law to provide "any plan, kind, manner or form of municipal government for counties. . . ." [7] The legislature utilized its power under this amendment, in 1931, by authorizing any county in the state to choose between its existing structure and the manager plan of government.

In several other states various options exist, permitting counties to have something to say in fixing local organization. New Jersey permits counties to choose between large county boards selected by ward representation of cities, boroughs, and townships, and small boards elected at large. Wisconsin allows counties to dispense with the township-supervisor plan in favor of small county boards. An option, granting a choice between a board of township-supervisors and a board of county commissioners, is open to the counties of Illinois. Alternative methods of forming county boards are available in Nebraska. In Louisiana, the parishes have a choice between a county board elected from police jury wards and a commission of three members elected at large. Valuable as these options may be, they are only piecemeal adjustments which individual counties may make. They are not complete, optional forms of county government, and cannot be ranked in

[6] Louisiana, *Constitution*, Art. XIV, Sec. 3.
[7] Montana, *Constitution*, Art. XVI, Sec. 7.

scope and significance with such legislation as that of Virginia in making available to her counties the alternatives of county executive and county manager.

Advantages accruing from optional laws are apparent in those states now employing them. Rigidly fixed uniformity for counties throughout the state stifles local initiative. Where constitutional trammels exist, amendments such as that of Virginia entitle legislatures to make available modern types of local rural government. In that state, the optional plans were based upon the recommendations of an official commission which had analyzed the most suitable types of administrative structure. Obviously, optional laws can be no better than the acts of the legislature and the will of individual counties to seize opportunity by the forelock. While optional laws need not modify the powers of counties, flexibility as to their structure is introduced.

County Home Rule

Home rule for counties enables them to surmount constitutional hindrances to structural changes. Home rule for cities was the retaliatory result of legislative meddling by special acts in municipal affairs. In so far as counties are extremely diverse in size, population, valuation, and degree of urbanization, the home rule principle is valid. In so far as they act as administrative subdivisions of the state, on the other hand, standardization and supervision appear essential. A formula, which will permit counties more freedom in determining their governmental outlines

and yet will retain legislative determination of their powers, is necessary. A home rule amendment, properly drafted, can attain these ends.

There is a line of demarcation between a county's structure and its powers. In this distinction lies the practicality of home rule for counties. State constitutions embodying the home rule principle should permit counties to frame, adopt, and amend charters fixing their governmental structure. Regarding their powers, counties should wield only those established by general law of the state. The county charter should provide the form of government for the county and fix the number of and manner of electing its board, and the method of selecting its administrative officials. It should likewise provide for the exercise of powers vested in the county, and for the performance of all duties imposed upon counties and county officers by law. Such a system of home rule would permit counties to devise and adopt forms of government suited to their needs. It would free them from the type imposed by the state constitution. Yet state control of the powers and duties of counties would be unimpaired. County home rule has obvious benefits. Local experimentation with different forms is possible. Counties electing to continue under the form set up in the constitution or the laws may do so.

Although county home rule offers a way out of the constitutional muddle, and although many states have considered it, only a few have actually tried it. California led the way, in 1911, with a county home rule amendment that is long and detailed. It provides for a board of fifteen

freeholders to draft a charter for the county. Such a board of freeholders may be elected pursuant to an ordinance voted by three-fifths of the board of supervisors or a petition signed by qualified voters amounting to 15 per cent of the total number of votes cast for all gubernatorial candidates at the last general election. The charter drafted by the freeholders must be submitted to popular referendum. If it survives, the charter goes to the state legislature for its acceptance or rejection as a whole. The legislature has power to reject but no power to alter or amend such a county charter.

In addition to the permissive powers granted to counties, there are mandatory provisions that each home rule charter must include. Each charter must provide for a board of supervisors of not less than three members elected at large or by districts, and for the election or appointment of a sheriff, clerk, treasurer, recorder, license collector, tax collector, public administrator, coroner, surveyor, district attorney, auditor, assessor, and superintendent of schools. The board of supervisors may be empowered by the charter to fix the compensation of these officers or the charter may fix their compensation. Charters shall provide for the number of justices of the peace and constables for each township, or for such other inferior court officers as may be provided by the state constitution or general law. Although the charter shall fix the powers and duties of supervisors and county officers, these provisions are subject to and controlled by general laws. Charters shall also provide for the discharge by county officers of municipal func-

tions when such action is authorized by general law or city charter. Charters must give full power to the board of supervisors to regulate by ordinance the assistants, deputies, and clerks in the county offices. Elective county officers shall be nominated and elected as provided by general law. Finally, such a county charter may be surrendered and annulled by a vote at a local referendum.[8] Counties are by law permitted to consolidate some of the offices required by the constitution. For example, the offices of county clerk and auditor or county clerk and recorder or county clerk, auditor, and recorder may be consolidated. The alternatives allowed are numerous, and liberalize somewhat "the constitutional requirement of uniformity." [9]

When the California Commission on County Home Rule reported in 1930, five counties of the state—Los Angeles, San Bernardino, Butte, Tehama, and Alameda—had adopted home rule charters. Local referenda in Napa, Sacramento, Santa Barbara, Stanislaus, and San Diego Counties had defeated home rule. In the latter county, there were two unsuccessful efforts to secure it. The Los Angeles charter, which was adopted in 1912, contained a rare feature for counties—concentration of power and authority in the board of supervisors by entrusting to them the appointment of all county officers except the sheriff, assessor and district attorney. The report of the Cali-

[8] California, *Constitution*, Art. XI, Sec. 7½.

[9] California Commission on County Home Rule, "County Government in California," 1930, p. 89.

fornia Commission increased county activity in the framing and consideration of home rule charters. In November, 1932, manager charters were submitted to the voters of Mendocino and San Mateo Counties; in the latter the charter was adopted. This was the first manager charter established under the California home rule system.

Detailed as the county home rule provisions of California are, they have been the means to profitable experimentation. In no other state have there been comparable developments. If, as seems to be the case, the county is to become more and more a unit for the maintenance of health, welfare, library, and recreational facilities, fire protection, and public works, then county home rule may be an indispensable device. It is elastic; it can be adapted to future needs now unknown. In its recognition of the peculiar needs of diverse counties lies its genius. As the California Commission on County Home Rule said: "A new type of county government under such home rule provisions for growth is possible and probable within a comparatively short time. The county of the future will not be the county of to-day with rearranged functions and officers. . . . The counties will develop as a strong urban and rural municipality, bringing to the citizens enormously increasing functions with smaller relative expenditures." [10]

Although Maryland ratified a county home rule amendment in 1915, no activity parallel to that of California counties in framing, adopting, or rejecting charters resulted. This amendment permitted the city of Baltimore

[10] California Commission on County Home Rule, *op. cit.*, p. 86.

or any county to frame a home rule charter and to submit it to the voters for approval or rejection. In any county, upon demand of not less than 20 per cent of the registered voters, the board of election supervisors must provide for the election of a charter board of five registered voters. At this election, the voters have a dual task—to select a charter board and to vote for or against the creation of such a board. Then the five candidates receiving the highest votes proceed to draft within six months a county charter, if the election results in a majority for the creation of such a board. This document is reported to the president of the board of county commissioners and submitted to a local referendum at the next general or congressional election.

This amendment did not grant home rule to counties as to powers. It authorized the legislature to make a grant of express powers to those counties which drafted home rule charters: "The General Assembly at its first session after the adoption of this amendment shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties . . . shall not be enlarged or extended by any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly." [11]

The amendment made mandatory the inclusion of specific provisions in county charters. For example, the

[11] Maryland, *Constitution*, Art. XI-A, Sec. 2. See Sections 3-7 for the remaining provisions as to home rule.

county charters must provide for a county council, and this body must not meet more than one month in each year to enact legislation for the county; it might meet more frequently as an administrative body. The county council has power to legislate on subjects as authorized by the state legislature in its express grant of powers to the counties. The presiding officer of the county council is to be known as its president.

Moreover, the amendment did not allow counties unqualified home rule in fixing their structure. The county charter board was limited by constitutional and general law provisions as to county officers. Since constitutional provisions required the election of numerous functionaries, such as sheriff, state's attorney, surveyor, clerk of courts, and register of wills, no county charter could escape a long ballot. A constitutional grant of powers to counties is not to be expected, but the constitutional designation of direct election for many county officers was a handicap to local initiative in developing new forms of government. Perhaps this explains why only one county in Maryland has essayed a home rule charter. This was the county of Baltimore which submitted a pseudo-managerial charter to its voters in 1920, only to have it rejected. In California, municipal home rule had become a well-established fact prior to the introduction of county home rule. Municipal activity in framing and adopting charters made analogous county activity plausible and probable. In Maryland, no such precedent was at hand. County home rule has been almost a dead letter there.

New York moved toward the home rule principle in 1921. A constitutional amendment authorized the legislature to provide special forms of government for Nassau and Westchester Counties, subject to local referendum. They were singled out for special treatment, "because of their large populations, their proximity to New York City, and the prevailing dissatisfaction with their form of government." [12] In 1925 and again in 1927, a charter was submitted to the people of Westchester County. Each was rejected. In 1927, "very vigorous objections were made by persons who felt that home rule was not yet assured to the inhabitants of the county. These people pointed out that the charter was simply a legislative act which might be amended by another session of the legislature without any consideration of the sentiments of the inhabitants of the county." [13] Two years later the constitution was amended further to assure home rule to these counties. The power of the legislature to change the form of government which Westchester or Nassau might adopt under the home rule clause was limited.[14]

By constitutional amendment, Arkansas attempted to confer some measure of home rule upon counties as well as municipalities in 1924. This was in the form of a grant of power to enact local legislation not contrary to the con-

[12] P. M. Cuncannon, "The Proposed Charters for Westchester County," *American Political Science Review*, XXII, 1928, p. 132.

[13] *Ibid.*, p. 137.

[14] For a discussion of these limitations, cf. "County Home Rule Amendment in New York," *National Municipal Review*, XIX, 1930, p. 124.

stitution or general laws. However, the Supreme Court of Arkansas declared the amendment invalid, holding that the procedure used in its adoption did not conform to that required by the constitution.

Home Rule and Optional Laws Compared

Both the home rule plan and the optional law plan for county government are now in effect in American states. Either opens the way to deviation from constitutional specifications. Under home rule, the actual devising of the new system rests with the counties; under optional laws, with the states. It is impossible to decide between the two policies on a theoretical basis. The optional law method is dependent, in the first instance, upon legislative action, establishing alternative plans that accord with modern administrative principles. Where, as in Virginia, the legislature after careful study enacts two optional acts designed to meet the needs of counties, each individual county has a choice between an antiquated existing structure and two modern systems. Home rule, likewise, cannot be judged theoretically. The county home rule amendment in California has been followed by the submission of home rule charters in numerous counties, and their successful adoption in six. On the other hand, in Maryland only one county has attempted a home rule charter and that attempt came to naught. Either home rule or the optional law plan is a legal way out of existing constitutional mazes.

Home rule has not been universally recommended for

counties. For North Carolina, it has been deemed inadvisable. "In the first place," Paul W. Wager writes in regard to that state, "improvement in county government is not hampered by the constitution, or at most only slightly. In the second place, any county which has peculiar conditions or problems has always been able to secure special legislation. There is none of that rigid uniformity that the counties in some states have found so stifling. . . . Home rule has generally been advocated, too, for urban or metropolitan counties with problems and functions that cannot be regulated by general legislation. North Carolina counties are comparatively uniform. Ninety-four of the counties are distinctly rural, and in none of the others is there a large city." [15] In Mississippi, a recommendation has been made against county home rule. The 1932 report on state and county government, under the auspices of the Research Commission of Mississippi, states: "We do not believe that any general grant of home rule to Mississippi counties would meet the present situation or appreciably improve county government." [16]

In a state with existing optional forms of county government, lacking any tradition of municipal home rule and having no metropolitan counties, home rule is not a press-

[15] P. W. Wager, "County Government and Administration in North Carolina," 1928, pp. 419-420.

[16] Institute for Government Research of the Brookings Institution, *Report on a Survey of the Organization and Administration of State and County Government in Mississippi*, 1932, p. 728. For a discussion of legislative power to alter county governmental structure in Mississippi, see p. 739.

ing issue. In Minnesota, as in North Carolina, the state constitution does not prevent legislative reorganization of the structure of county government. These state legislatures are not bound by constitutional peccadillos. It is within their power to reorganize and readjust county structures. In a few other states, home rule is unnecessary because of existing legislative freedom to deal with the problem. The constitution of Minnesota attempts no enumeration of county officers, and their method of selection. The legislature has power to provide for such county officers as may be necessary, and also to provide for the manner of their election or appointment. In Louisiana, Montana, and Virginia, the legislatures are constitutionally authorized to create optional forms of county government. These are states in which the constitutional opportunities for improving county government are unusual.

Home Rule Urged in Ohio and Michigan

In states like Ohio and Michigan, where the constitutional opportunity for reorganization of the county machine is now limited, home rule has its protagonists and its antagonists. One of the perennial battles over the issue roused the Ohio legislature in 1931. After two state conferences on the subject, and energetic consideration by civic groups and business and farm interests, a constitutional amendment was submitted to the General Assembly. The amendment authorized the legislature to draft optional forms of county government, and entitled individual counties to frame and adopt charters. But the legislature

did not want authorization to alter county government; nor did it want counties sanctioned in framing home rule charters. This home rule amendment was, according to R. C. Atkinson, "mangled" by the Ohio Senate and "strangled" by a committee of the lower house. "Its defeat was no surprise. The County Affairs Committee of the house consisted chiefly of small-county men and organization Republicans from Cincinnati—the very elements most suspicious of or hostile to change in county government." [17]

The exponents of a new deal in county government returned to the attack in 1932. They proposed to circumvent the Ohio legislature by placing a constitutional amendment on the ballot at the November election through popular petition. A County Home Rule Association was formed, with Charles P. Taft, 2nd, as chairman. This amendment proposed to grant the General Assembly power to provide alternative forms of county government by general law, to become operative in counties by a majority of those voting upon the question. It also authorized any county to frame and adopt or amend a charter for its government. But there were insufficient signatures to put the amendment on the ballot at the 1932 election. Later, the number of signers reached more than 200,000 and the Secretary of State was petitioned to place the amendment on the ballot at the next general election. Major structural changes in county government in Ohio

[17] R. C. Atkinson, "County Reorganization Blocked by Ohio Legislature," *National Municipal Review*, XX, 1931, p. 446.

must wait upon the adoption of such a constitutional amendment.

Home rule for counties has been urged in Michigan to break the constitutional specifications requiring the biennial election in every county of a sheriff, county clerk, treasurer, register of deeds, and prosecuting attorney. Sporadic home rule movements have failed. A citizens' state committee sponsored a constitutional amendment to permit counties to "frame, adopt, and amend charters for their self-government." [18] The drive, which lasted from 1919 to 1921, was unsuccessful. A later attempt resulted in the passage through the Michigan Senate of the following constitutional amendment in 1929: "The legislature shall provide by a general law for home rule for counties and under such general law any county may adopt by a majority vote of the electors voting thereon a charter for the conduct of county government. Such general law may permit a county in its charter to fix the number and manner of election of its board of supervisors and to fix the term and manner of selection of its officers other than judicial officers, including those provided for in the constitution. Execution of the powers and duties conferred by the constitution and general laws of the state shall be provided for in each county charter." Since this amendment was not passed by the lower house, it never came before the voters of the state.

[18] Citizens' State Committee, "How to Save Money for Michigan Taxpayers," pamphlet, 1921.

In 1933, a report [19] to the Michigan Commission of Inquiry into County, Township and School District Government favored a constitutional amendment making it possible for the people of any county to adopt either an optional county government act framed by the legislature or a home rule county charter. Both the optional law system and home rule were deemed advisable, since Michigan has a number of urban counties whose problems might better be solved by home rule charter. However, the Commission of Inquiry was adverse to a home rule amendment which would permit counties by charter to abandon the existing plan of township and city representation upon the boards of supervisors. Such an amendment in their opinion would permit an unwarranted disturbance of the balance of power between urban and rural areas in their representation on county boards. The Commission of Inquiry, therefore, recommended a constitutional amendment permitting counties to reorganize only the administrative branch of their government by local ordinance, initiated by action of the board of supervisors or by a popular petition and effective by a majority of those voting thereon at a general election. The Commission believed that such an amendment would further econnomical administration without disturbing the township-supervisor system of constituting county boards. Fear of shifting this balance of urban and rural power has long thwarted a county home rule amendment in Michigan.

[19] A. W. Bromage and T. H. Reed, "Organization and Cost of County and Township Government," 1933, Chap. XI.

"A Model State Constitution"

The choice between home rule and the optional law method is not easy. Each fills a different bill. For the average rural county, home rule is unnecessary if the legislature can and does make available optional forms of government conforming to modern principles. It is the large urban and metropolitan counties which suffer in the absence of home rule. In the event that none of the optional plans established by the legislature meets their needs fully, they cannot work out their own solutions. There is much to be said for the inclusion of both the optional law plan and the home rule plan in the constitution of a state with diversified types of counties. The inclusion of both makes assurance doubly sure. If the optional law plan alone is authorized, and the legislature fails to draft any such plans, nothing has been gained. In the case of a refractory legislature, home rule might be an indispensable alternative.

The Committee on County Government of the National Municipal League drafted, in 1932, a series of model constitutional provisions on county government. After much deliberation, it recommended the inclusion in state constitutions of both the optional law system and home rule for counties. The model state constitutional provisions which they drafted would permit the legislature to establish optionl forms of county, city, and village government: "Provision shall be made by general law for the organization and government of counties, cities and villages. Optional

laws may also be enacted for the organization and government of counties, cities and villages; but no such optional law shall become operative in any county, city or village until submitted to the electors thereof and approved by a majority of those voting thereon." [20] Under this model state constitution, counties would also be authorized to frame home rule charters. The county board, by a two-thirds vote, might, or upon petition of 10 per cent of the qualified electors of the county must, submit to the voters the question: "Shall a commission be chosen to frame a charter for the county of ——?" Such a home rule charter, according to these model provisions, "shall provide the form of government of the county and shall determine which of its officers shall be elected and the manner of their election. It shall provide for the exercise of all powers vested in, and the performance of all duties imposed upon counties and county officers by law." [21] Any such charter would have to receive a majority of the votes cast thereon to become the organic law of the county.

With both optional laws and home rule for counties, the road would be paved for experimentation in forms of government, either by the legislature or by individual counties. For the rank and file of counties, optional laws should suffice; for a few urban counties, home rule charters might be desirable. Under both systems, the determination of the powers of the counties would be left to

[20] "A Model State Constitution," Sec. 78, *National Municipal Review*, XXI, 1932, pp. 540-542.
[21] *Ibid.*, Sec. 83.

the discretion of the legislature, where it properly belongs. The system of county home rule here projected does not imply that counties shall become autonomous with constitutionally reserved powers over local affairs. It is simply an attempt to allow counties a chance to determine their forms of government, leaving to the state legislature the delineation of their powers.

Both the optional law system and home rule are empirical methods. Both have been practiced in county government. They are not guarantees of good government, but they make improvement legally possible. Without the incorporation of one or both of these devices in their constitutions, the majority of American states must continue with standards of county government dictated by past generations and embedded in existing state constitutions.

Advantages of Local Option

What are the arguments that favor permitting counties freedom to select from optional law plans or to draft by home rule charter their own forms of government? When a single form of government is foisted upon a county by the constitution or statutes of a state, and no alternative allowed, no intelligent, local interest is aroused. In the days when municipal charters were framed in the legislative committees at state capitals, civic apathy as to forms of municipal government was appalling. With the introduction of municipal home rule, a deep spring of civic enterprise in studying forms of government was released. City after city emerged from heated contests with mana-

gerial charters. Is there any reason to believe that the county electorate would be less energetic in analyzing forms of government than urban voters? The clamping of a uniform type of government upon local communities—urban or rural—by the state deadens civic pride and responsibility. One of the most important duties of any state is to promote vigorous interest of citizens in local affairs. The voters are not going to educate themselves as to good government if they cannot put the results of their study into practice. They have no academic interest in the county mayor or the county manager. If, however, by state law they can have either of these, or draft their own mayor or manager charter, debate is engendered and the fight is on.

Another benefit deriving from the optional law or home rule systems is the salutary effect upon county officers. If county officials know that another form of government is legally possible, efficiency is promoted. When conspicuous lapses under the old régime may mean a new, it is to the interest of county employees to make the existing government work as well as possible. No one has ever attempted to analyze the influence of the threat of a manager charter upon the workings of mayor and council government in cities. Those who man mayor and council governments know that it is to their advantage to prevent failure which will precipitate a concerted drive for a different type of government. If the people cannot see their way to sound administration under one form of municipal government,

they try another. In the typical county government of to-day, the public has no such big stick.

Time is no respecter of constitutions. The systems of county government which past generations wrote into various state constitutions were predicated upon the principles and conditions of that hour. Their day is past, but the system which they devised lives on. It is not proposed that this generation err by writing into state constitutions the county manager or the county mayor plan. Our state constitutions are now so long and so cluttered with minutiæ that they read like statutes. The optional law system puts faith in succeeding legislatures to meet future needs of county government. The home rule principle is a similar extension of trust to individual counties. Neither system, as proposed, flies in the face of the state's province and prerogatives. Powers which counties exercise must rest with the state legislature under either plan. No generation has a monopoly on political sagacity. To retain existing constitutional clauses on county government is to admit that the past knew better than the present.

CHAPTER VI

THE COUNTY MANAGER PLAN

THE MANAGER plan, whether it be for city or for county, has essentially the same characteristics. It rests upon the principles that policy can be best determined by a relatively small council or board of directors, and that administrative responsibility can be best concentrated in a manager. The council or board creates major policies. Bicameralism is non-existent. No upper and lower house divide the ultimate responsibility for action. No one has a veto power over the council or board. No significant checks and balances exist within the structure. Under the manager plan, a unicameral body alone is accountable to the electors of city or county. All legislative power is vested in this unicameral council, board, or commission, whatever its name may be. Separation of powers, checks and balances, veto power—all are abandoned in favor of unitary responsibility and authority. Because the council is generally small in size, the short ballot is a concomitant of the manager system. Election day permits the people to pass judgment upon the work of their representative council. The electorate may also have power to recall members of the council before the expiration of their allotted terms.

Concentration of responsibility for administration in a manager appointed by this council or board is the second major premise of the manager plan. The manager appoints the chief administrative officers, whose activities are subject to the jurisdiction of the council. It is his duty to control, direct, and, when necessary, remove these administrators, for as chief administrator he is accountable for the execution of the policies formulated by the representative council. The manager's responsibility is to the council. That body appoints and may dismiss him. The council determines the course of administration through its power to enact ordinances or resolutions, to levy taxes, and to appropriate funds. To a representative council the people entrust the formulation of specific policies. To a chief administrator, the manager, the council entrusts the execution of these policies.

The manager idea characterizes many phases of American life. It is found in business and school administration. Manager government is parallel to corporate organization in which the stockholders select a board of directors to pass upon policies and hire a manager who superintends the business. It is analogous to regular practice in school organization. The voters elect a school board which determines general policies and selects a superintendent to manage the schools. The keynote in all these plans is the combination of a representative board to decide upon general policy and a manager or superintendent to act as chief administrator. This is the sum and substance of the manager idea.

The manager proposition for counties is fundamentally identical. A representative board, preferably small in size and elected at large, would determine general policies for the county, levy taxes, and make appropriations. The county board would appoint and, when necessary, discharge a manager. He, in turn, would select and dismiss the heads of administrative departments, such as finance, public works, public health and welfare. The county board would be responsible for determination of policies. The manager would be accountable for their execution.

As soon as the manager plan had been successfully launched in urban administration, demands were made that it be given a trial in county government. While the manager idea made headway in cities, its progress in counties was in no way comparable. Constitutional obstacles impeded alteration of governmental structure in counties. Driven from many manager cities, the political machines entrenched themselves more firmly than ever in the counties. There were hundreds of manager cities in the United States when North Carolina adopted, in 1927, an optional county manager law. Prior to that time, a home rule manager charter for Baltimore County, Maryland, and several home rule manager charters for counties in California had been rejected at the polls. With optional county manager laws now upon the statutes of North Carolina, Montana, and Virginia, and the San Mateo home rule manager charter in California, a foothold in the county has been gained by this plan. Whether it is to be a temporary advance or the start of a permanent county

manager movement remains to be seen. Because the manager plan has so far received little application in counties, much of the argument that it be used in county government now rests upon its achievements in cities.

Development of the City Manager Plan

The mayor and council of Staunton, Virginia, decided in 1908 to hire a general manager to control the city's administration. Their experiment was a forerunner of the council-manager plan of municipal government. Four years later, Sumter, South Carolina, by charter set up a city manager. Morgantown and Hickory, North Carolina, followed suit. The movement gathered momentum when, in 1914, the city of Dayton, Ohio, applied the manager scheme. In that year only eighteen manager cities existed in the United States. Eight managers attended the first annual conference. From these humble beginnings, city management has emerged to its present dominant position in municipal life. In 1932, Clarence E. Ridley, executive director of the International City Managers' Association, could report 413 council-manager cities in this country. At first the new plan made more headway among smaller cities. Later the larger communities swung into line. As a result, among cities of over 10,000 population, one out of five has council-manager government. This ratio also holds for the ninety-three cities of over 100,000 population.[1]

[1] C. E. Ridley, "The Rise of a New Profession-City Management," *Public Administration*, XIV, 1932, p. 120.

The manager plan is no longer an experiment in American cities. It is an established type of municipal organization with 425 municipalities listed in the 1933 official directory of council-manager cities of the United States, and 165 unofficial manager cities. Since the latter cities gave the managers limited powers of appointment and restricted their administrative duties, they were not placed on the official list.[2] At the end of 1932, only sixteen cities that had adopted the manager plan by vote of the people had abandoned it by the same method. Economic conditions having nothing to do with managerial government were at the root of abandonment in many of these cities. Collapse of the real estate boom in Florida caused a number of municipalities to react unfavorably to their manager charters. The plan was given a very brief trial under political circumstances prejudicial to its success in other centers such as Hot Springs, Arkansas, and Akron, Ohio. Cleveland, the largest city to adopt the manager plan, abandoned it by popular vote in 1931. Yet the small proportion of abandonments by popular referendum to total adoptions by the same process speaks well for the position of managerial government in public favor.

In the few years since its birth, city management has become a recognized profession. "In support of the idea that city management can logically be claimed to be one of the professions, it is pointed out that there has been a total of 206 promotions from one city to another. . . .

[2] *City Manager Yearbook*, 1933, p. 43.

The average length of service of the 402 city managers holding office at the end of 1931, and for whom data were available, was five years and three months, including all cities served." [3] The managers have a professional organization known as the International City Managers' Association, with a membership of over five hundred. This association has adopted "The City Managers' Code of Ethics," which defines the professional responsibility of a manager to the city council and to the people. This document represents a landmark in the development of local administration in the United States. Although brief and much to the point, it constitutes a professional explanation of what the manager idea means in government.[4]

What business men think of the city manager plan appears from an inquiry conducted by the Chamber of Commerce of the United States in 1930. Secretaries of local chambers of commerce in city manager cities were asked to submit the judgment of their business leaders as to the success or failure of the scheme. A summary of the responses which this inquiry obtained from sixty-seven cities was compiled, and the Chamber of Commerce of the United States concluded that: "Most of these expressions are favorable to the City Manager Plan." [5]

The reason for these favorable opinions is not hard to find. Manager cities furnish the best evidence of the new day in municipal administration, the displacement of spoils-

[3] C. E. Ridley, *op. cit.*, p. 121.

[4] Cf. *City Manager Yearbook*, 1932, pp. 242-244.

[5] Chamber of Commerce of the United States, "The City Manager Plan of Municipal Government," 1930, Foreword.

men by trained men, with resultant savings to the taxpayers. Managers' records in reducing costs and in improving the quality of services rendered to the public appear from time to time. There was, to cite an outstanding example, the experience of Knoxville, Tennessee, with council-manager government. The manager, who took charge on January 1, 1924, found only $38,000 in the city treasury and the local banks were withholding further loans. "Although the budget adopted by the new council was $500,000 less than the expenditures of the last year of the old government, by the end of July a surplus had accumulated which enabled a refund to all the citizens of 10 per cent of the taxes which they had paid. This refund amounted to $280,000, and since the budget itself had provided for $500,000 less than was spent the year before, the people profited to the extent of almost $800,000." [6] Growing familiarity with the record of council-manager government increases the chances for its adoption. In Ohio, California, Michigan, and Virginia, manager government has been tried on a wide scale. When a city drafts a new charter now, it is generally of the manager type. Four of every five new charters install managers.

Obstacles and Objections to County Managers

Can the manager plan, securely established as it is in municipal, school, and business administration, be transferred to county administration? Obstacles and objections

[6] "The Story of the City Manager Plan," National Municipal League, 1929, p. 2.

appear, but they are not insuperable. The systems of county government prescribed by a majority of state constitutions are now intrinsically adverse to the manager idea. Before manager counties become legally possible in many states, these constitutions must be amended. Machine politicians on county boards might subvert the manager plan to their own ends. The mere erection of manager structure is not enough. As in cities, it is imperative that the electorate rise above partisanship to select a council that will understand and maintain the plan. Proportional representation would facilitate election of independents as county board members. Impediments to county management are very real, but the prospects for city management were no more auspicious. In the years when it was a machine-ridden community, few envisaged for Cincinnati the type of municipal control now enjoyed there under manager government. A municipal citizenry, long dormant under machine rule, has oftentimes awakened to vigorous civic life under a manager. Manager government in counties might quicken to activity many electorates now docilely following party labels on election day.

Wylie Kilpatrick holds that a manager is not absolutely essential to an integrated administrative program in the county. Coördination of county officers, in his opinion, can be secured through supervision by the county board and by the state government. Lacking a chief executive officer, such as a manager, the board will have a group of advisers to assist in determining specific policies. But, as he writes, "Despite variety in advisers (or with the aid

of it), unity in decision will result from an embracing budget, control of expenditures, and administration accountable to responsible directors of functions." Not only does Mr. Kilpatrick view the manager plan as unessential to a coördinated plan of county administration, but he argues further that it has serious limitations. "A realistic view of county and American politics affords little encouragement to the centering of all appointive power in one official. . . . Disagreeable as may be the conclusion, the existence of party organizations in every county suggests that centralization of appointments in one man will invite centralization of actual choice, if not in the organizations, at least under partisan influence." [7]

Other objections have been found to manager government for counties. It is held that the county, as it exists to-day, is an artificial subdivision of the state rather than a vital unit of local self-government. Increasing state centralization, it is urged, will make it unnecessary to have a chief executive in county work. People, we are told, have become indifferent to county government. They want good roads, but they no longer care whether the state or the county builds them. In this vein, Kirk H. Porter told the Government Research Association at its Chicago meeting in 1929: "Supervisors' meetings are attended only by those who have their own fish to fry. The general public scarcely knows when they meet, or what they do when they do meet. So it is with most of the

[7] Wylie Kilpatrick, "Problems in Contemporary County Government," 1930, pp. 640-641.

other county offices. . . . Public interest left these offices in a slough of indifference long ago. This tendency has been apparent for many years, and in the twentieth century it has been tremendously accelerated. We want good roads so badly we climb right over the counties in our eagerness to have the state build them for us, and build them properly." [8]

North Carolina gave evidence of this trend in 1931. The legislature raised the gasoline tax another cent, discontinued state aid to local road organizations, and assumed responsibility for the maintenance of forty-five thousand miles of local roads. The care of local prisoners was made a state function. State financial support of the constitutional public school system was authorized. In explanation of these drastic measures, Governor O. Max Gardner has said: "The General Assembly provided that those functions of local government which are peculiarly statewide in effect should be set up as functions of the state. . . . As a direct result of this redefining of the functions of local and state governments, our rural roads are better maintained than ever before in our history; our schools have been kept open and the vouchers of our teachers have been paid at par; prisoners are kept under the most humane conditions; the credit of our local governments has become more stable." [9] One year later, Virginia adopted a similar policy as to county roads. At the same time, the

[8] Government Research Association, *Proceedings*, 1929, pp. 53-54.
[9] National Advisory Council on Radio in Education, *Government Series Lecture No. 12*, Nov. 29, 1932.

state legislature made optional with counties a county manager plan. State centralization and optional rejuvenation of county administration became concurrent policies. Although the transfer of such a major county function as roads to the state diminishes the scope of any county managerial positions that may be created, the Virginia Commission on County Government felt that county administration was still of sufficient importance to justify introduction of county managers.

Another method of state centralization is to increase supervision by state departments over corollary county officials. The proponents of this arrangement would have, for example, the state highway department supervise county engineers; the secretary of state, the county clerks; and the state police, the county sheriffs. Under such a program, the existing decentralized type of county organization would be retained with no attempt to correlate its officers locally, trusting to state supervision to keep them at a standard level of conduct and efficiency. "And indeed, one great advantage of achieving reform in this way," in the opinion of Mr. Porter, "is that it can be done gradually and by slow degrees. It can be done with respect to one function, as with highways or with education, without touching the sheriff's office. . . . And it can be done so gradually that the public will adjust itself almost unconsciously."[10] Undeniably, this is an expedient method of improving county administration, although its ultimate success must rest upon the caliber of state administration,

[10] Government Research Association, *op. cit.*, p. 57.

and the price is a continuing loss of local responsibility in government.

These are some of the more important obstacles and objections to the county manager plan. Constitutional barriers are present. Political machines in county government have made some view with distrust a manager with absolute power to appoint and remove administrative heads. Even with constitutional amendments and revamped governmental structure, the county electorate must be alert to prevent resurgence of old political customs under new forms. State centralization is viewed by others as the logical answer to many existing problems in county administration.

Arguments for County Managers

Transplantation of the manager plan to county government is possible even in the face of these obstructions and objections to it. Exponents of the plan believe that state constitutional provisions will eventually give way to amendments reflecting new trends in local administration. Injection of greater responsibility into county government will have a positive reaction, they hope, upon the electorates. It should stimulate interest in the county board and the county officers. They hold that state centralization is not the logical answer, that it is worthwhile to attempt to save local responsibility through more efficient types of county government. Admitting that county boundaries must be redrawn and consolidations effected, they point to a new type of county, conforming to trade

areas and performing more functions more adequately. Holding this to be a better way out than state centralization, they view with alarm the progressive transfer of powers and functions to state capitals. Increasing state administrative supervision over county officers would not, in their opinion, make a chief executive unnecessary in the county. The county board, in discharging its duty to the state and to the county electorate, should have a responsible agent.

While the manager idea was still a novelty in municipal affairs, its applicability to county work was suggested. Addressing the First Conference for Better Government in New York State in 1914, Richard S. Childs advised those present to "look forward to a time when counties will be governed by a small board of supervisors. . . . Put upon them the responsibility for all of the work of the county. Permit them to hire their county manager from anywhere in the United States and pay him whatever salary they believe necessary in order to secure the requisite ability. The county manager will appoint and control all other county officials and employees, subject to civil service regulations. . . ." Sponsors of county manager government have in recent years increased rapidly in number. In 1930, a "Model County Manager Law" was drafted. This model plan represents the opinion of a group of experts as to the best type of county government. It was devised by the Committee on County Government of the National Municipal League appointed in 1929 to study the problem of county government. The

model manager law represented "in the opinion of members of the committee, the first practical step to be taken toward a solution" of county problems.[11]

"The Model County Manager Law"

The Model County Manager Law authorizes any county to adopt the manager plan by a majority of the votes cast on the question at a local referendum. Such a referendum must be held pursuant either to a petition signed by 5 per cent of the whole number voting at the last general election, or to a resolution passed by the board of county commissioners. Under this model plan, the board of county commissioners "shall be the policy-determining body of the county, and, except as otherwise provided by law, shall be vested with all the powers of the county, including power to levy taxes and to appropriate funds." The board has power "to inquire into the official conduct of any officer or office under its control." It has, in addition, power to put all officers of the county upon a salary basis and to require all fees to be paid into the county treasury.

Power to appoint a manager is lodged with the county board. "The county board shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government, and shall devote his full time to this work. He shall be appointed with regard to merit only, and he need not be a resident of

[11] "A Model County Manager Law," *National Municipal Review*, XIX, 1930, pp. 565-579.

the county at the time of his appointment." The board has power to remove the manager. "The manager shall not be appointed for a definite tenure, but shall be removable at the pleasure of the county board." The manager is entitled, if he so demands, to a written statement of reasons for removal and a hearing at a public meeting. He is "responsible to the county board for the proper administration of all the affairs of the county which the board has authority to control. To that end he shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this act, and except as he may authorize the head of a department or office responsible to him to appoint subordinates in such department or office."

Responsibility of administrative officers and employees to the manager is insured by his removal power: "Any officer or employee of the county appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or the officer by whom appointed. Any director of a department or other officer who has been suspended or removed by the manager, within five days thereafter shall be given a written statement setting forth the reasons for dismissal, if he so requests." A copy of this statement, the written reply of the officer involved, and the manager's decision must be filed as a public record with the office of the clerk to the county board.

The manager, directors of all departments, and all other officers of the county, elective or appointive, are entitled

to attend sessions of the county board. The manager has the right to present his views on all matters. The directors and other officers have the right "to present their views relating to their respective departments or offices."

Powers and duties of the county manager are carefully defined. As chief administrator, he shall supervise collection of revenues, secure proper accounting, and look after physical properties, institutions, and agencies. He must execute the resolutions and orders of the board. He is responsible for the faithful execution by the board and officers of state laws. The manager appoints all officers and employees, unless otherwise provided or unless he delegates that power. With the approval of the board, he shall fix the salary of all officers and employees appointed by him or by a subordinate. He can remove all officers, agents, and employees that he appoints. He must prepare the annual budget for the board and execute it according to the board's resolutions and appropriations. He must make monthly reports to the board and keep that body fully advised of the county's financial condition. He is to examine the books and papers of every officer and department, reporting their condition to the board. Finally, he shall execute any other duties required by the board. Specific administrative activities for which the manager is responsible are likewise outlined by the Model County Manager Law. The manager may appoint an advisory board of citizens for any specified department or office. The law outlines the powers and duties of the departments of finance, public works, and public welfare. Additional

departments may be created by the board on recommendation of the manager. The manager is given authority to employ an attorney as legal adviser after securing the endorsement of the board. The plan concludes with technical requirements as to the bonding of officers and the prohibition of direct or indirect interest of county board members, officers, or employees in any contract to which the county is a party.

Such is the Model County Manager Law, prepared by the National Municipal League Committee on County Government.[12] In place of the existing assortment of elected officers in the typical county, it offers a chief executive, the manager, with administrative officers grouped under his unified command. It assures democratic government through the responsibility of the manager to the county board. The influence of this model is reflected in the optional county manager laws adopted in Montana in 1931 and in Virginia in 1932. Development of such a plan in American counties would revitalize county boards, and would center administration in a manager whom the board hired and might, if necessary, discharge.

The First County Manager Proposals

Toward these principles, county government has moved slowly. California, Maryland, and Montana made the first overtures. Their early attempts only approached full-fledged county management, and never achieved it. No real range of appointive authority could have been

[12] *National Municipal Review*, XIX, 1930, pp. 565-577.

exercised by the manager under these proposed home rule charters of Maryland and California. In Montana, the manager charter was *bona fide*, but not entirely a county proposition. In spite of shortcomings, these tentative proposals were all grist for the manager movement.

County electorates in California were responsible for the defeat of several manager charters. Such charters were defeated when submitted to the voters of San Diego and Napa Counties in 1917. In both, the manager's power to appoint administrative officials was circumscribed. A campaign to introduce manager government in Alameda County in 1922 failed. The Alameda charter proposed the union of the municipalities and the county under a city-county government with a city-county manager. Strictly speaking, this was not a manager charter, inasmuch as the manager was not in complete charge of administration. Not only the proposed manager, but also the metropolitan features of this charter contributed to its collapse. Sacramento County submitted a so-called manager charter to the voters in the same year. So many officials were to be independently elected under this that it was hardly a manager plan. Its fate was similar to the others in the state. In 1923, a second attempt to secure adoption of a manager charter in San Diego County was futile.[13]

Five years after home rule permitted some freedom to counties in the state of Maryland, the County of Baltimore

[13] California Commission on County Home Rule, *op. cit.*, 1930, pp. 187-188.

drafted a manager charter. Drawn up in 1920, this provided for a council of fifteen members elected from districts to serve a three year term. The council was to select a county manager with indefinite tenure. The manager had power to nominate the heads of administrative departments subject to confirmation by the county council. A number of county officers under the constitution and general laws of the state were still to be elected, including the sheriff, prosecuting attorney, clerk of courts, register of wills, treasurer, and surveyor.[14] The manager's appointive authority was so curtailed that the plan did not conform to the standards of managerial government. After stirring up considerable comment, enthusiasm was cut short when the voters of the county rejected the charter in November, 1920.

In Montana, a consolidated city and county was proposed in 1923. A constitutional amendment of the previous year had empowered the legislature to provide new forms of government for consolidated counties and cities and towns, subject to the voters in the territory affected. An act of 1923 proposed a city-county manager for a consolidated government of Silver Bow County and the cities and towns therein. This consolidated unit was to be governed by a commission of seven members elected at large. The commission was authorized to appoint a city-county manager, solely on the basis of his executive and administrative qualifications. The manager was given no defi-

[14] Cf. H. W. Dodds, "A County Manager Charter in Maryland," *National Municipal Review*, IX, 1920, pp. 504-513.

nite term. He was subject to removal at the pleasure of the commission. Although the city and county attorney remained elective, the manager's range of appointive authority was otherwise broad. County administration was merged with that of the consolidated government. To the director of finance was entrusted the power and duties of county clerks, recorders, and auditors. Upon the treasurer of the consolidated City and County of Butte, as it was to be called, were imposed the duties of county treasurers. The new police department included the functions of the county sheriff. County roads were to be handled by a public works department of the consolidated government. The director of the health department was to have the power and duties of coroners and county health officers.[15] The appointive power of the city-county manager was adequate and the integration of municipal and county functions admirable. However, by a small majority at a special election in 1924, the voters defeated this manager plan. It was not until several years had elapsed, that county management again became an issue in Montana.

In these three states, the early county manager plans were signs of the drift toward county management, but they were little more than that.

A Home Rule Manager Charter Adopted

It was not until 1932 that the first home rule manager charter was accepted. In 1932, manager charters were submitted to local referenda in Mendocino and San Mateo

[15] Montana, *Laws*, 1923, Chap. 160.

Counties, California, the latter being adopted by a vote of 12,541 to 8,592.

The Mendocino charter provided for a county board of five members elected from supervisorial districts. The board was required to appoint, by a vote of at least four-fifths of its entire membership, a county executive officer to serve as the chief executive and administrative head of the county government. The county executive was to be appointed for an indefinite term and subject to removal at the pleasure of the board. He was authorized to appoint the following county officers: clerk, recorder, treasurer, tax collector, license collector, surveyor, county engineer, purchasing agent, coroner, public administrator, and director of health and welfare. The county board was to appoint, in addition to the county executive: members of the board of education, superintendent of schools, assessor, agricultural commissioner, and sealer of weights and measures. The elective officers, other than the members of the board of supervisors, included the auditor, district attorney, and sheriff.[16] Local prejudice against this form of government resulted in the defeat of the Mendocino charter by a vote of 5,321 to 2,324.

The San Mateo manager charter is the first of its type in California. It provides for a board of supervisors elected at large, one each from five districts. The elective administrative officers under this charter are the assessor, clerk, controller, district attorney, sheriff, and superintendent of schools. Appointment of the agricultural com-

[16] *The Redwood Journal,* Ukiah, California, Sept. 20, 1932.

missioner, board of education, law library trustees, librarian, planning commission, and sealer of weights and measures was vested in the board of supervisors. An unusual method of selecting the county executive was established. A qualification board, made up of two Superior Court judges, superintendent of schools, and two additional members, one to be appointed by these three and one to be selected by the supervisors from without their number, was to submit a list from which the supervisors by a four-fifths vote would select a county executive to serve for a four year term.

As Edwin A. Cottrell writes: "The powers of the county executive are the usual administrative ones of supervision, advice to the board of supervisors, appointment of officers and boards, budget and ordinance recommendations, employment of consultants, examination of plans for all public works, contracts and claims. . . . The officers appointed by the county executive are building inspector, board of health and welfare, director of health and welfare, coroner and public administrator, engineer and surveyor, tax and license collector, purchasing agent, recorder, recreation commission, and treasurer." [17] The acceptance of this charter by the voters was due to an extensive period of research and education and an intensive campaign for adoption at the polls. The San Mateo plan is an outstanding example of structural changes made possible by the California system of county home rule. It will be

[17] E. A. Cottrell, "San Mateo County Adopts Manager Plan," *National Municipal Review*, XXI, 1932, pp. 669-670.

followed with great interest by all exponents of the manager plan for counties.

Georgia

As an example of the optional law method of reforming county government, the 1922 legislation of Georgia is of slight importance. In 1922, Georgia made a so-called county manager arrangement optional with counties of the state. This legislation provided for a board of county commissioners of roads and revenues composed of five members to serve a four year term, with a manager as chief executive. The county commissioners were given exclusive jurisdiction over all county matters, such as roads, bridges, finance, levying and collecting of taxes, control and disbursement of funds, and supervision of buildings. The board was not granted jurisdiction over education, health, and other matters vested by general law in other officers or tribunals. It was required to exercise executive powers only through the manager or some duly appointed agent. The manager's qualifications are outlined in the act. He must be a man of good moral character and must be at least twenty-five years of age. Practical experience in business, finance, and the management of labor is a prerequisite. His term is for two years, but the board may discharge him at any time for whatever cause it deems sufficient.

The manager is given power, with the consent of the board, to appoint a superintendent of roads and all other officers and laborers on roads, bridges, and buildings, or

other work over which the board has jurisdiction. The manager supervises and has power to discharge these officers or laborers for cause, although such officers have a right of appeal to county commissioners. The manager serves as chief purchasing and selling agent of the county, his decisions herein being subject to ratification of the board. In counties of less than ten thousand population, the board may combine the office of manager and that of superintendent of roads. The manager acts as clerk to the board of commissioners. He and the board must publish semi-annual reports on the financial condition of the county, showing receipts and their sources, disbursements and their purposes. All warrants drawn on the county must be signed by the manager and countersigned by the chairman or vice-chairman of the board. Such was the county manager plan made optional with the counties of Georgia in 1922.[18]

To call an election in any county on this optional law, it was necessary that a petition signed by one-fifth of the qualified voters of the county be filed with the ordinary. To become operative, the act required a majority vote of the qualified electors of the county. Since the typical optional law requires only a majority of those voting on the question to be effective, the Georgia law fixed a high standard for acceptance of this pseudo-managerial plan.

In 1927, the county manager law of 1922 was amended to make it optional with any county of 44,051 population at the 1920 census by a majority of those voting on the

[18] Georgia, *Code*, XII, 1926, Sec. 855 (3)-(28).

proposition.[19] This amendment applied to DeKalb County alone. It made it easier to adopt the plan in DeKalb County than in others where a majority vote of the qualified electors was still required under the 1922 act. The 1927 amendment was held unconstitutional by the Georgia Supreme Court on the grounds that it was special legislation. The court admitted that the legislature might classify counties and pass general laws with respect to these classes. But in the opinion of the court: "If the attempted classification is so hedged about and restricted that the act applies to only one county, and other counties cannot come within the class created, it is a local law and not a general one having operation throughout the state." [20] No other county than DeKalb could come within the scope of the act of 1927. Thus, it was a special law, in violation of the constitution, and was void. While the court held the 1927 amendment unconstitutional, it declared the 1922 act, providing for the county manager form of government, constitutional. The act of 1922 was, in the opinion of the court, a "general law having general operation throughout the territorial limits of this State." It was not robbed of its general character by the fact that it did not go into effect in a particular county "except upon a majority vote of the qualified voters of the county." [21]

[19] Georgia, *Code*, XIV, 1928, Sec. 855 (26).
[20] Marbut *v.* Hollingshead, 172 *Georgia Reports*, p. 536 (1931).
[21] *Ibid.*, p. 534.

North Carolina

North Carolina took a step toward the county manager plan in 1923. The legislature designated the chairman of the board of Alamance County as a manager. This so-called manager was elected by popular vote, whereas, under a true managership, the chief administrator is appointed by a representative council. Nevertheless, the Alamance executive had some of the powers and duties normally given to an appointed manager. In contemporary comments, the Alamance chairman-manager was called the first county manager in the United States. In name, perhaps he was, but not in fact.

Legislation followed in 1927, making a manager plan of a better type available to the counties of North Carolina. Under this act, the county board may appoint a manager as the administrative head. He has charge of administering those county departments over which the board has control. He is to be selected with regard to merit alone, and the position is not restricted to residents of the county. However, the county board was also allowed the option of conferring the duties of manager upon its chairman or upon any other existing county official qualified for the task. The term "manager" as used in the act applied not only to managers appointed by the board from outside the courthouse, but also to any such chairman or qualified officer.

Resolutions and regulations of the county board must be faithfully executed by the manager, according to this

act, and he must attend meetings of the board, make recommendations, report on the affairs and financial condition of the county, and perform such other functions as the board requires. He has power "to appoint, with the approval of the county commissioners, such subordinate officers, agents, and employees for the general administration of county affairs as the board may consider necessary, except such officers as are required to be elected by popular vote, or whose appointment is otherwise provided by law." [22] The county manager holds office at the will of the board of commissioners. He "may remove such officers, agents, and employees as he may appoint, and upon any appointment or removal he shall report the same to the next meeting of the board of commissioners." [23]

Davidson County seized the opportunity thus afforded in 1927. By resolution of the board, the county manager plan was adopted. The board selected as manager a man from outside the courthouse associates. C. C. Hargrave, who had demonstrated his ability in private business, became the board's chief agent in fact as well as in title. He was not only county manager, but also county accountant, purchasing agent, road supervisor, and tax supervisor. The manager plan was a success at the outset. The county retired over $100,000 of indebtedness in one year. This was accomplished with a reduced tax rate. Notable savings resulted in the cost of county purchases; reductions of more than 50 per cent were accomplished in some items.

[22] North Carolina, *Public Laws*, 1927, Chap. 91, Sec. 6.
[23] *Ibid.*, Sec. 7-8.

As county accountant, Manager Hargrave kept the books so that the cost of the annual audit by a certified public accountant, which previously had been from $2,700 to $3,200, was cut to $1,100.[24] Efficient government with a minimum of politics became a reality in Davidson County during 1927 and 1928.

Then in the general election of 1928, the Democratic county board was overturned and five Republican county commissioners were elected. In spite of Manager Hargrave's record, he was displaced by a manager whose party affiliations conformed to those of the new board. C. H. B. Leonard, a former member of the state legislature, was selected. "The new manager was independent and aggressive, in fact rather enjoyed a fight. For ten years half of the road levy collected within the three incorporated towns of the county had been returned to these towns for street improvement purposes. The manager challenged this practice on the ground that it was an illegal diversion of county funds. Partly because of his championship of this issue, and partly because of faults of temperament, the manager soon lost the favor of his board and was asked to resign." [25] He refused to do so and the board rescinded the manager plan. Promising managerial control in Davidson came to an untimely end less than two years after its inception.

The law of 1927 permitted the counties of North Caro-

[24] Cf. P. W. Wager, "Improving County Government in North Carolina," *National Municipal Review*, XVIII, 1929, pp. 8-15.

[25] P. W. Wager and H. P. Jones, "Signs of Progress in County Government," *National Municipal Review*, XIX, 1930, p. 546.

lina to designate as manager the chairman of the county board or any other county officer qualified to perform such duties. These options, rather than the appointment of an outside expert as manager, have been generally taken by the counties of the state. In Alamance, Cleveland, and Macon, the chairman of the board was selected to act as manager. Durham and Guilford designated a member of the county board as manager. Iredell and Robeson placed the duties of manager upon the county accountant.[26] Obviously, the designation of a member of the county board as manager creates a system of government very unlike that outlined in the Model County Manager Law.

Durham County may well serve as an example of the operation of the North Carolina manager law. In August, 1930, Mr. D. W. Newsom, a member of the county board, was appointed manager. When his tenure as a board-member expired in December, he was continued as manager but with the board in control of appointments. The manager also serves as auditor and purchasing agent. He requires regular reports from officers, supervises the budget, and prepares monthly financial statements for the county board showing the condition of the budget, the progress of tax collections, and the amounts of county funds in official depositories. By a carefully prepared budget the county has operated during the past three years without resort to borrowing. The manager has become a coördinating force in the community by consultation with

[26] Institute for Government Research of the Brookings Institution, "County Government in North Carolina," 1930, p. 40.

department heads, county board members and the general public. There are nearly a dozen counties in North Carolina where a good deal of executive power has been put in the hands of some county official, but he cannot be considered a *bona fide* manager, in the sense of a city manager.[27]

The policy of state centralization, launched in 1931, has affected the developing managerial plans in North Carolina. The 1931 road legislation, transferring the county roads to a state system, relieved the counties of an important function. Corollary to this legislation, the burden of county prisoners was placed upon the state. The state has constructed prison camps additional to those already erected by counties and has continued the county practice of using the prisoners as laborers on the road system. In the same year, the legislature provided for state maintenance of a six months' school term. These measures, desirable as they may be in view of conditions, decreased the significance of the North Carolina manager movement. Writing in 1932, Paul V. Betters held that: "With the liquidation of functions from the county there is left in the county insufficient administrative work to occupy the full-time efforts of a county manager. North Carolina pioneered in the county manager direction in 1927; now, under its new policy, it has no vital need for the county manager plan. The county of North Carolina will gradually fade

[27] *City Manager Yearbook*, 1933, p. 40. Professor P. W. Wager and Mr. D. W. Newsom kindly furnished me with details of the Durham County plan.

from the picture (if it has not already done so)." [28] This issue is not for North Carolina alone. It is a situation which will confront many states and force them to choose between remodeling county government or letting the county fade into obscurity through state centralization. North Carolina seized one horn of the dilemma in 1927 and the other in 1931. So far, the latter policy has had wide-spread public support because of the decrease in the general property tax.

Virginia

Virginia has vied with North Carolina in the growth of county managership. By law of 1928, the Virginia legislature permitted counties to choose between optional forms of road management. The roads might be managed directly by the county board, or the board might select a county engineer or manager. Albemarle County chose the manager option. The manager was really a county engineer who had certain fiscal powers in addition. Washington County followed a like policy. The action of Fairfax County was almost identical, but Fairfax did not bestow the title of manager upon the engineer. Augusta County, with the sanction of the legislature, has used the clerk to the board of supervisors as the executive agent of the board. The clerk has performed investigations for the board, prepared monthly statements, and kept the financial accounts of the departments. The clerk was not designated

[28] P. V. Betters, "North Carolina Centralizes," *National Municipal Review*, XXI, 1932, p. 498.

as a manager, but "under the clerk, who is primarily a financial agent, the tax rate has been cut considerably, the debts have been paid, and out of the chaotic rambling of offices and boards there has come some evidence of order." [29] Under a special legislative act, Pittsylvania County has since 1926 used an "auditor-manager." Here the auditor, through limited fiscal control, and as an adviser to the board of supervisors, became an executive. None of these officers was an absolute county manager, but each revealed the trend toward county management.

In 1930, two years after the Virginia constitution had been amended to permit optional forms of county government, the General Assembly passed an enabling act applicable to counties having a population density of five hundred people to the square mile. This offered choice of either a commission or a county manager. Although this act applied only to Arlington County, it was sustained by the Supreme Court of Appeals of the state as a reasonable classification. Arlington County, across the Potomac River from Washington, has had a suburban growth in recent years. By referendum, the voters decided for the optional county manager plan, and it became effective on January 1, 1932. Under this act as adopted by Arlington County, legislative powers are vested in a county board of five members elected at large. Administrative powers are in the hands of a manager appointed by the board. The manager has power to hire and dismiss officers whose selection is not otherwise provided. A number of officers, pro-

[29] Virginia Commission on County Government, *op. cit.*, p. 87.

vided for by the constitution, remained elective under this act, including sheriff, clerk of court, commonwealth attorney, treasurer, commissioner of revenue, and county judge. Although some of these should have been subjected to appointment under a thorough-going manager plan, this was politically inexpedient at the time the optional law was passed. To obtain immediate adoption of the plan in Arlington County, the manager's appointive authority was restricted and direct election of these officials was retained. The manager's term of office is one year. If his services are no longer necessary, he must be allowed notice sixty days before the end of any term. He may be removed for malfeasance, misfeasance, incompetency, or neglect of duty. In choosing a manager, the board is not confined to county residents. Powers granted to the manager are denied the board. Conceding the limitation of the manager's power to appoint and control certain administrative officers, the Arlington plan was at the time of its adoption the best type of managerial government achieved by any county.

The new régime took effect in Arlington under trying conditions. No sooner had the new county board assumed office in 1932 than, "Illegal debts aggregating about $40,000 contracted by the previous board faced them and upon the heels of this disclosure came the news of shortages in three county offices involving over $400,000." [30] After half a year's operation of the new form of govern-

[30] Hugh Reid, "The County Manager Plan in Arlington County, Virginia," paper read at the Virginia Institute of Public Affairs, July, 1932.

ment, the Honorable Hugh Reid, a member of the Virginia House of Delegates, summarized its results: "There has been a marked gain in confidence in public officials. The increased importance of the board in the scheme of government, together with the novelty of the experiment, brought out a great number of candidates practically all of whom were much better material for public office than officeholders in the past. . . . The board consists of one woman—a former school teacher—and four men—two lawyers, a real estate broker and a Federal employee." County finance improved with the development of an effective budget system. Central financial control under the manager resulted in economies in other departments. He maintained that centralized administration in purchasing contributed to savings which could not be attributed entirely to falling prices. In the matter of appointments: "Employment on the basis of ability to render satisfactory service has resulted in better service to the public, a higher morale among employees and a marked increase in output." [31]

The manager plan was launched in Virginia with the action of Arlington County. Since the act of 1930 applied only to one county, its immediate benefits were entirely local. Meanwhile, the Virginia Commission on County Government was at work. This Commission had been created by the legislature of 1930, as a continuing body to draft a "general law setting forth optional forms of county government, to investigate the operation and costs of

[31] *Ibid.*

county government, and to study comparative county government in Virginia." [32] The Commission, reporting to the General Assembly of 1932, recommended that the legislature make optional by general law a county executive form and a county manager form. The latter was based upon the Model County Manager Law sponsored by the National Municipal League. The legislature acceded by making both types of government available to any county except Arlington.

Under the executive form, the county board appoints an executive officer to devote full time to the work of the county. The board of county supervisors has power to appoint upon recommendation of the county executive all officers and employees in the administrative service of the county except as otherwise provided.[33]

Under the county manager form, the board of supervisors consists of not less than three nor more than seven members. The act provides that, "The board of supervisors shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government, and shall devote his full time to the work of the county. He shall be appointed with regard to merit only, and need not be a resident of the county at the time of his appointment." The manager is not appointed for a definite tenure, but is removable at the pleasure of the board. He may demand a written statement of the reasons for his proposed removal and a hearing thereon at a

[32] Virginia Commission on County Government, *op. cit.*, p. 5.
[33] Virginia, *Acts of Assembly*, 1932, Chap. 368, Sec. 2773-*n* 7 (*a*).

public meeting of the board prior to the date upon which his removal takes effect. The manager is responsible to the board for the proper administration of all county affairs over which the board has authority. "To that end he shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this form of county organization and government, and except as he may authorize the head of a department or office responsible to him to appoint subordinates in such department or office. All appointments shall be on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform. Any officer or employee of the county appointed by the manager, or upon his authorization, may be laid off, suspended or removed from office or employment either by the manager or by the officer by whom he was appointed." This clause does not apply to the county clerk, the attorney for the commonwealth, or to the sheriff. They remain elective officers in accordance with the general laws.

The county manager law provides for the organization of functions into seven divisions or departments: finance, public works, public welfare, law enforcement, education, records, and health. The county supervisors may establish two additional departments: assessments and farm and home demonstration. The law provides for the abolition of several officials and transference of their duties to these standard divisions and departments. Among those abolished are the county surveyor, coroner, superintend-

ent of the poor, overseers of the poor, and constables.[34]

The future of the manager plan in Virginia rests with individual counties. The legislature did all in its power in 1932. The manager plan is not compulsory. In accordance with the principles of local self-government, its adoption is left to a local plebiscite. To the General Assembly goes the credit for granting to the people of the counties freedom of choice in determining the structure of their government. "This legislation," as a member of the Virginia Commission said, "gives to the people for the first time in the history of the Virginia County the right to a voice in determining the form of government under which they shall live." [35]

Montana

In 1924, the Butte-Silver Bow charter consolidating city and county under a manager plan was rejected at the county polls. Seven years later the legislature of Montana made the manager plan of government optional with any county. The constitutional amendment of 1922 had paved the way, and the legislation of 1931 made it possible for any county to employ a manager by a majority of those voting on the issue at a local referendum.

Once this plan is accepted, the county board "shall be

[34] The optional county manager law established by Virginia, *Acts of Assembly*, 1932, Chap. 268, became in the *Code of Virginia*, Chap. 109*a*, Sec. 2773-*n* 28 to Sec. 2773-*n* 53.

[35] G. W. Spicer, "The Significance of the Virginia County Government Legislation of 1932 to the People of the Counties," paper read at the Virginia Institute of Public Affairs, July, 1932.

the policy-determining body of the county, and except as otherwise provided by law, shall be vested with all the powers of the county, including power to levy taxes and to appropriate funds." The administration is focused in the manager. "The county board shall appoint a county manager and fix his compensation. He shall be the administrative head of the county government, and shall devote his full time to this work. He shall be appointed with regard to merit only, and he need not be a resident of the county at the time of his appointment." The manager may be removed at the pleasure of the board. He may, however, demand a written statement of the reasons for his proposed removal and a hearing at a public meeting of the board. "The manager shall be responsible to the county board for the proper administration of all the affairs of the county which the board has authority to control. To that end he shall appoint all officers and employees in the administrative service of the county, except as otherwise provided in this act, and except as he may authorize the head of a department or office responsible to him to appoint subordinates in such department or office."

The appointive authority of the manager does not extend to the county sheriff, attorney, or clerk of court. They remain elective by general law. Neither the county board, its committees, or members shall direct or request the appointment or removal of any employees by the manager or his subordinates. Any violation of this restriction is a misdemeanor. Any member of the board con-

victed of interfering with appointments or removals forfeits his office.

Any employee of the county appointed by the manager or upon his authorization, may be laid off, suspended, or removed by the manager or the officer making the appointment. Any director of a department or other officer suspended or removed by the manager must be given a written statement of the reasons for his dismissal upon request. This statement, the officer's reply, and the manager's decision must be filed as a public record with the clerk to the county board.

Among the powers and duties of the manager are supervision and collection of all revenues. He is to guard all expenditures and secure proper accounting for funds. It is his duty to supervise the physical property of the county and all its institutions and agencies. He must execute and enforce all resolutions and orders of the board, attend all its meetings, and recommend action that he considers expedient. With the consent of the board, the manager shall fix the compensation of all officers and employees appointed by him or a subordinate. He shall prepare and submit the budget. It is his duty to execute the budget in conformity with the appropriations and resolutions of the board. He must make regular monthly reports to the board and keep it advised of the county's financial condition. The manager shall examine regularly the books and papers of officers and departments, reporting their condition to the board. Other duties may be required by the board. The administrative activities for which the

manager is responsible are outlined in detail. The law provides for departments of finance, public works, and public welfare. The manager may select a board of citizens to act in an advisory capacity to any head of a department or office. The county board may, at the manager's recommendation, create additional departments.[36]

The Montana manager law of 1931, like the Virginia law of 1932, was based by and in the large upon the Model County Manager Law drafted by the National Municipal League Committee in 1930. In the first year after the adoption of this act in Montana, Ravalli County alone held a referendum upon it. The voters, failing to take advantage of the optional law, rejected the manager scheme.

Conclusion

Progress toward county management in North Carolina, Virginia, and Montana has been by way of the optional law plan, while defeat met the early home rule charters in Maryland and California. That the way to proceed is by optional law and not by home rule charters does not necessarily follow. The rejected home rule charters came early in the county manager movement, before voters were familiar with the plan. Later, in 1932, San Mateo County did adopt a home rule manager charter. One clear advantage the optional law method does possess. Once upon the statute books, it is ready at hand for any county in which sentiment veers toward the manager idea. To

[36] Montana, *Laws*, 1931, Chap. 109.

what extent counties will avail themselves of existing optional legislation remains to be seen. On the other hand, the home rule system is peculiarly suited to urban and metropolitan counties, whose needs cannot always be met by general optional acts designed for the rural county.

The gulf between theory and practice in county management is narrowing. The first trials were far removed from an ideal system. But the Model County Manager Law, drafted in 1930, has already made its influence felt in the optional legislation of Montana and Virginia. It is no longer theoretical; it no longer lacks practical significance.

Popularity of the county manager plan does not compare with far-flung city management. The feasibility of managing counties as cities are managed is a moot point. Opinion differs at the outset over the applicability of this type of government to the county. But those who point to this disparity in the growth of managership between cities and counties, and conclude that it will make little headway in the latter, fall into an easy error. Only in the last few years has the manager plan, in fact as well as in name, been authorized for counties by state legislatures. Constitutional obstacles still confront it in many states. Upon the experience of California, Montana and Virginia may rest the future of the county manager plan, for there is a marked tendency to copy successful reforms in local government from neighboring states.

There are bound to be many half-way and quarter-way county manager plans. Rural opposition to entrusting appointive authority to the manager, and implicit reliance

upon direct election of officers underlies these pseudo-managerial devices. Where local feeling against the manager's appointive authority is strong, the Virginia county executive form is a logical second best. Under this, the chief executive or manager recommends, but the board finally appoints.

There are other alternatives, all falling short of the Model County Manager Law. Wylie Kilpatrick has advocated creation of county "business-managers." Such officials would prepare and administer the budget, control purchasing and accounting. They would not have authority to appoint the administrative officers. These would be accountable to the county board. Others urge that the logical step is to concentrate power to appoint administrative officers in the county board and make no immediate attempt to create a chief executive. Still another alternative is the establishment of elective county mayors, granting to them appointive powers and perhaps a qualified veto over the acts of the board.

One of these schemes may fit exactly the peculiar needs and psychology of an individual county. If the manager plan is unobtainable, political realists will compromise with these alternatives. In some city manager charters and ordinances, provision for the popular election of a few administrative officers or their appointment by the council still persists. This is why 165 so-called manager cities were not accorded a place on the official list in 1933. Introduction of an absolute manager in every county that sets out to reform its structure is not to be expected. Some

will set up genuine managers, others will stop more or less short of the ideal. The manager movement in counties will proceed by trial-and-error rather than by the abstract reasoning of its proponents. For example, it is now estimated that there are approximately thirty-nine pseudo-managerial county governments in existence, largely in North Carolina and in Virginia.[37] The North Carolina practice of designating the chairman of the board or some other county officer as manager is not the manager plan of the Model County Manager Law, but it is an advance in county administration which should not be minimized. Prior to the authorization of county managers in Virginia, a number of counties as already noted moved in the direction of an executive with pseudo-managerial powers. In Alabama, Madison and Limestone Counties have allocated to the chairman of the governing board some functions of a county manager. Limestone County uses the chairman as a purchasing agent; as a supervisor of road work; if he is an engineer, as county engineer; and in accordance with practice in the counties, as chief fiscal officer. It has been said that this concentration of authority in the chairman suggests a tendency in Alabama toward the county manager plan.[38] Furthermore, in Missouri, managerial tendencies are apparent in certain counties in the work of the highway engineer and county clerk.[39] These

[37] *City Manager Yearbook*, 1933, p. 51.

[38] Institute for Government Research of the Brookings Institution, "County Government in Alabama," 1932, pp. 80-81.

[39] Cf. W. R. Bradshaw, "County Managerial Tendencies in Missouri," *American Political Science Review*, XXV, 1931, p. 1009.

trends in various states, optional manager laws in Montana and Virginia, and manager governments in Arlington County, Virginia, and San Mateo County, California, are accumulating evidence of the manager idea in county administration.

CHAPTER VII

COUNTY ADMINISTRATION

A COMPOSITE picture of county officers at work is difficult to draw. Powers and functions of the county vary extremely among the states. In some parts of the nation this unit plays a more important part than in others. In New England the town fulfills many needs which the county elsewhere administers. In the South, where the township does not exist, the county is called upon to play a larger rôle. This is not always the case, for in North Carolina the state has assumed the burden of administering important local functions. In the Middle West the distribution of rural services among states, counties, and townships differs from state to state. So it is that any generalization about county administration needs qualification.

Certain features of county personnel, however, are fairly common. Relatively standard tasks in the administration of justice, finance, public works, health, welfare, and records are performed by most counties. The ends of justice are usually served by a sheriff, prosecuting attorney, and coroner or medical examiner. Financial officers include a treasurer, an assessor, a tax collector, an auditor, and divers combinations of these offices. The chief ele-

ment in public works is maintenance of roads under a superintendent of highways. The range of public health and welfare officers defies classification: there are county health boards and agents, superintendents of the poor, and there are county officers who serve ex officio in these capacities. County records are kept by a series of clerical functionaries: county clerk, clerk of courts, and register or recorder of deeds, although separate offices are not always created to deal with these activities. Many of these positions are provided for by state constitutions and are directly elected. Only a few are appointed. The work of the county is carried on by this roster of administrators.

Branches of County Administration

The office of county sheriff is ubiquitous. It is found in every state and, with the exception of Rhode Island, is everywhere an elective one. The sheriff's duties generally fall into three categories: keeping the peace, acting as an officer of the courts, and serving as a keeper of the county jail. Of late years his activities as court officer and custodian of the jail have overshadowed his work in maintaining the peace in rural areas. This is particularly true where a state constabulary has been established and aids in the policing of rural areas. During unusual crises and disorders, the sheriff may summon the *posse comitatus* to deal with any situation beyond the control of his deputies. In routine police work, however, his organization is no match for organized crime. His resources do not permit effective patrol to prevent crime. Modern detective work

in apprehending criminals is impossible with his limited resources. Apart from police work, the sheriff has important duties in serving court orders and in executing court judgments. His responsibility as a jailer is very grave when the safety of his prisoners is threatened, but ordinarily this is routine work. It often includes serving meals to prisoners on a fee basis. Although elected by the people of the county, the sheriff serves as an agent of both the county and the state. If the peace of a particular county is not maintained by its sheriff, the security of the state may be menaced. The state looks to the sheriffs to enforce state laws within their jurisdictions.

The county prosecuting attorney, whether designated as district attorney, attorney for the commonwealth, or by some other title, is generally an elective officer in each county. The prosecutor is appointed by the governor, in a few states, with the approval of the upper branch of the legislature. The duties of the prosecuting attorney are commonly of a dual nature: to conduct prosecutions for violations of state laws committed in the county, and to act as legal adviser to the county board and to county officers. This is not always the case, since some states have a separate attorney to serve as counsel for the county. Like the sheriff, the prosecuting attorney serves as a state agent. Prosecution of offenders against state law is of vital concern to the whole state. The fact that the prosecutor is so generally elected and is subject to local influences means that there is variation in law enforcement among the counties. Since his work is primarily as a state

agent, it seems logical that he should be appointed by the state rather than elected by the county. His work as counsel for the county is really the result of the inability of small counties to support both a prosecuting attorney and a counsel.

The county coroner is still a familiar figure, although he has been supplanted in some places by a medical examiner. More than one-third of the state constitutions require the direct election of a county coroner. In some other states, the office is a statutory one. This official is part of our English heritage. As the word indicates, it was the first duty of a coroner to protect the crown's interests and the royal revenues. Since the king automatically became the owner of any weapon used in suspicious deaths, it was part of the coroner's duty to obtain the weapon for the king. His chief function in the American county has been to hold inquests in cases of deaths of unknown or suspicious origins. It is the purpose of an inquest to secure knowledge of the facts surrounding a death which will be of service to the prosecutor's office.

All the states except Rhode Island provide for a county treasurer or some officer to perform the treasurer's duties. Although some states have established appointed or ex officio treasurers, most of them are elected by popular vote. An elective county treasurer is required by the constitutions of more than one-third of the states. His principal task is to act as custodian of county funds and to disburse them upon warrant of the county clerk, auditor, or some other officer as determined by law. Another duty of the treas-

urer is to serve as tax collector. This is not always the case, since some states use other county officers ex officio for this, and a few require an additional officer to serve in this capacity.

Where assessment of property for taxation is a county function, it is generally placed in the hands of another official known as the assessor. County assessment is common in the South, although some Southern States follow the practice of selecting assessors for districts smaller than the county. In the Middle Atlantic and Mid-Western States, the assessor is most frequently a town or township representative.

An auditor whose chief duty is to approve for payment claims against the county exists in many regions. His action is generally subject to final decision by the county board. There are elective and appointive auditors, officials who serve ex officio as auditors, and auditors who serve ex officio in other capacities.

As it is in the administration of justice and of finance, so it is with public works. The selection of individual officers to handle particular functions is the rule. Appointment of department heads to supervise roads, drains, buildings, and other public works in a single department of public works is the rare exception. Although the appointment of a county road superintendent or highway engineer by county boards is the common practice, a few states provide for the election of a similar official. In Michigan, a separate board of road commissioners supervises the work of the highway engineer. The board may

be elected by the people or appointed by the board of supervisors. Since highway expenditures bulk large in county work, a separate road commission considerably reduces the power of the county board.

County health administration is handled in a variety of ways. The most common device is a county board of health. This may consist of the county board of supervisors serving ex officio, or the county board and other officers serving ex officio, or some other combination of existing officers, with or without physicians or laymen as additional members. In some instances, the state plays a part in the choice of members of the county health board, and in others, it is left entirely to the localities. Ordinarily, the county health board chooses an executive agent, a part-time officer whose chief work is to take care of those unable to pay for private medical attention. In this phase of county administration, progress has been rapid during the last two decades. The county health unit with a full-time health director in charge has been adopted in approximately one-fifth of the counties of the United States. This movement is among the most notable improvements in county administration.

Poor relief is another function administered by a variety of units and officers. The township is in some states a unit for poor relief, the county in others. A few states allow counties to choose between the county and the township as a unit for administering poor relief. It is not uncommon for the county almshouse to be under the administration of one set of county officers, and outdoor poor relief

to be in the hands of another group. Some states scatter welfare activities among boards, commissions, and individuals. R. C. Atkinson makes this telling indictment of the diversification of welfare activities in Ohio: "If, in my state, I desired to secure assistance for an aged man, I would have to go to the superintendent of the county infirmary. If it were an orphan child, I should have to turn to the juvenile court or the children's home board. On the other hand, if it were a blind man, I should take the matter up with the county commissioners. Were it a war veteran or one of his family, I might go to the soldiers' relief commission, and in the case of a widowed mother, to the juvenile court. There are about half a dozen independent bodies among whom this big, humanitarian task of caring for the poor is divided." [1] Ohio is by no means the only state in which complaints against the multiplication of welfare agencies prevail.

Clerical work in the counties is accomplished by a variety of individuals: county clerk, court clerk, and register or recorder of deeds. Some states combine the office of county clerk and clerk of courts; others, the office of register of deeds with the county clerk or clerk of courts. In a few, the auditor serves also as county clerk. Lack of sufficient work to justify separate officers and need for economy compels this doubling-up process. Many of these clerical positions are elective and have constitutional status. In Idaho, the district court clerk is ex officio auditor and

[1] R. C. Atkinson, "The Development of a County Budget System," paper read at the Virginia Institute of Public Affairs, July, 1932.

recorder. Michigan provides for a county clerk and a register of deeds, but the board of supervisors may combine or separate these offices. In Nevada, the county clerk is ex officio clerk of courts of record and of the county board; there is a separate recorder. Constitutional stipulations for the direct election of clerical officers in counties are multitudinous.

Correlation of County Functions

What stands strikingly apparent in county administration is the absence of any correlation of functions. Separate officials all go their own ways. A system of departments dealing with related matters is necessary. A unified department of finance, for instance, would have charge of assessment of property, collection of taxes, fees, and other revenues, custody and disbursement of funds, maintenance of accounts, and preparation of a budget. These activities are scattered among miscellaneous officers, and no one person is accountable for the county exchequer. Responsibility is frittered away among a group of elective and appointive officers who are more often than not responsible only to periodic checks on election day and to indirect control by the county board. County administrative officials are rarely integrated into any scheme of departmentalization. They bear no clear-cut relationship to the county board or to a chief executive.

While much has been done to create unifunctional departments in cities, the counties have marked time with their elected and consequently independent, administrative

officers. Any attempt to create a group of unifunctional, administrative departments, such as finance, records, health, welfare, and police, encounters difficulties. State constitutions provide for certain county officers without any consideration of departmentalization. Certain existing officials do not fit into a reasonable plan of departments. For example, the county sheriff and the prosecuting attorney are so closely linked to state administration that they should probably remain outside a plan of county departments, the heads of which would be appointed by the chief executive or by the county board.

In city administration, the last decades have been marked by development of organized departments of police, fire, health, public works, and other functions headed by commissioners appointed by and responsible to a mayor or manager. The correlation of municipal functions into a system of departments has not always been scientific. Tradition and personalities have played their parts. But city administration is generally no longer manipulated by a welter of directly elected officers and boards dealing with devious functions. There has been a movement to group similar services into correlated departments with heads responsible to a chief executive.

The lack of a chief executive in counties has retarded the development of an orderly system. In the absence of any central administrator with power to appoint heads of county departments, administration of finance, health, welfare, public works and records has remained uncoördinated. Creation of a chief executive officer and integration

of county functions into responsible departments go hand in hand. One without the other is incomplete.

"Model County Manager Law"

In 1930, the National Municipal League Committee on County Government outlined in its Model County Manager Law a system of county departments. The committee agreed on the integration of certain major functions into three departments: finance, public works, and public welfare.

This model plan charges the director of finance with the administration of the financial affairs of the county, "including the budget; the assessment of property for taxation; the collection of taxes, license fees, and other revenues; the custody of all public funds belonging to or handled by the county; control over the expenditures of the county and its subdivisions; the disbursement of county funds; the purchase, storage and distribution of all supplies, materials, equipment, and contractual services needed by any department, office or other using agency of the county; the keeping and supervision of all accounts." The director of finance, under this plan, acts as county assessor, or appoints and supervises one. Similarly, he acts as tax collector and treasurer or appoints and supervises them. In place of a treasurer, the county board may by resolution select a bank or banks as the official treasury of county funds. The director of finance shall act also as purchasing agent or appoint and supervise this officer. These flexible provisions are adaptable to the needs of small and large

counties, and they permit either a small or a large personnel in the department of finance.

The director of the department of public works is charged by the Model County Manager Law with "the construction and maintenance of county roads and bridges, county drains, and all other public works; the construction and care of public buildings, storerooms and warehouses, and such equipment and supplies as the county board may authorize."

The third major department, that of public welfare, unites both health and welfare work under a single director. He has control of "poor relief, hospitals, charitable and correctional institutions, parks and playgrounds, and public health."

The director of any department is required to perform such other duties as the county board prescribes. Any activity unassigned to a particular department may be assigned by the county board to an appropriate one. On recommendation of the manager, the county board may create additional departments.[2]

The National Municipal League Committee which framed the Model County Manager Law left the office of sheriff unsettled, making no definitive recommendation as to this position. "The committee was unanimous in believing that the sheriff should be appointed rather than elected, but differed as to whether he should be appointed by the state attorney general or by the county manager."

[2] Cf. "A Model County Manager Law," Sec. 12-18, *National Municipal Review*, XIX, 1930, pp. 573-576.

The committee recommended that the county board and manager should share responsibility in naming an attorney to act as legal adviser to the county, in the belief that the prosecuting attorney "probably should be appointed by the state attorney general." [3]

The Model County Manager Law has significance, representing, as it does, the views of experts on the coördination of county affairs into a series of departments. Soon after this was drafted, Montana and Virginia took cognizance of its suggestions in establishing systems of county departments in connection with their optional county manager laws. Montana's action came in 1931; Virginia's, in 1932. The significance of these optional laws is not confined to their manager clauses; they also propose radical realignment of county services. One of the fundamental prerogatives of a manager is the appointment of department heads. If a rational outline of departments is not set up, the manager's efficacy is thereby curtailed.

The Montana and the Virginia Systems of Departments

The Montana optional county manager law provides for a series of departments paralleling those suggested by the Model County Manager Law: finance, public works, and public welfare. The county board may, on recommendation of the manager, create other departments. The manager himself may serve as the head of one department, with the consent of the county board. He may also ap-

[3] *Ibid.*, p. 568.

point a board of qualified citizens to serve in an advisory capacity to any department head.

The director of finance has charge of the budget, assessment of property, collection of public funds belonging to or handled by the county, control of expenditures and disbursement of funds, purchase, storage, and distribution of supplies, materials, equipment and contractual services needed by a department, office, or any other using agency, and the keeping and supervision of accounts. The director of public works is authorized to supervise roads, bridges, drains, public buildings, storerooms, warehouses, and other public works. The Montana law, following the scheme of departmentalization advocated in the Model County Manager Law, establishes a department of public welfare with a single director in charge of poor relief, hospitals, charitable and correctional institutions, parks, playgrounds and public health.[4] The heads of these three major departments are to be appointed by the manager.

The sheriff, attorney, clerk of court, and superintendent of schools remain elective. Nevertheless, they are required to submit their budgets to the manager and to have all claims for salaries and other expenses audited and allowed like other county claims. Here is one system of departmentalization. It falls short of complete integration of appointive authority in the manager. But the plan is superior to the typical county system with a string of independent, elective officials. The Montana law makes it optional with counties to substitute a considerable measure

[4] Montana, *Public Acts*, 1931, Chap. 109, Sec. 12-19.

of departmentalization for the existing set of elective county officers.

By the optional county manager law, which was passed in Virginia in 1932, the office of the attorney for the commonwealth and of the sheriff are combined in a department of law enforcement. They are not subject to the appointive authority of the manager, but remain elective. The attorney is accountable to the county board in all matters concerning the county. The sheriff exercises all powers and performs all duties imposed upon sheriffs and constables by general law. He controls the county police force and the county jail, and executes such other duties as the board imposes upon him. A department of records is headed by the county clerk, who, like the sheriff and the attorney, remains elective. He acts as clerk of the circuit court and as clerk of the board of supervisors. Another group of departments, finance, public works, public welfare, and health, are to be managed by executives appointed by the county manager. The manager is given power both to appoint and to remove the heads of these units. The law provides also for a department of education, consisting of the county school board, the division superintendent, and all other school officers and employees. The school board is appointed by the county board of supervisors. Here is another system of departmentalization for counties. It, too, falls short of complete integration of appointive authority in the manager.

The departments placed under the county manager by

Virginia deal with relatively standard functions of a county. The director of finance has charge of the budget, assessments, collection of taxes and fees. He has custody of all public funds and supervision of their disbursement. Financial accounts and the purchase, storage, and distribution of supplies are part of his duties. The department of public works headed by a county engineer is authorized to construct and maintain roads, bridges, drains, and other public works including buildings, storerooms, and warehouses. The need for this department has diminished since Virginia provided for the inclusion of county roads in the state highway system, and few counties exercised their option to retain control of roads. The optional manager law made allowance for this by specifying that the remaining duties of the department of public works should then be assigned to some other department or officer by the county board. Unlike the Model County Manager Law and the Montana act, the legislation of Virginia creates separate departments to deal with welfare and health. A superintendent of welfare heads that department, and has charge of poor relief, charitable and correctional institutions, parks and playgrounds. The county board may select two citizens of the county to form, with the superintendent, an advisory board for the department. This board may adopt rules and regulations not contrary to general law. The department of health is headed by a county health officer, who must be chosen from a list of those eligible provided by the state health board. Here, likewise, the board of supervisors may choose two qualified

citizens to act with the county health officer as an advisory board. The Virginia plan makes optional with the county board the power to create two additional departments: assessments, and farm and home demonstration. This legislation permits individual counties to adopt a system of departments, the majority of which have executive heads appointed by a manager.[5]

General agreement appears in the Montana and Virginia legislation that assessment of property and collection of taxes, custody, accounting, and disbursement of public funds, purchase of supplies, care of buildings, county highways and public works, care of the poor, county charitable and correctional institutions, parks and recreational facilities, and public health work should be integrated into departments. These standard functions fit nicely into the county manager plan. The offices of sheriff and prosecuting attorney present obstacles and cannot be so readily articulated into the administrative structure. Montana and Virginia left these officials elective.

Reorganization Proposed in Alabama and Michigan

A system of administrative reorganization was proposed for Alabama in 1932. There it was recommended that county reorganization should recognize law enforcement and legal work, education, health, welfare, and agriculture as state functions to be exercised under the supervision of appropriate state departments, with the head of each branch of administration in the county eventually ap-

[5] Virginia, *Acts of Assembly*, 1932, Chap. 368, Sec. 2773-*n* 35-52.

State police organizations, which began in a modest way, are now in some states a challenge to the continuance of county sheriffs. Their expert staff for criminal investigation, patrol work, trained men, and area of operation are reducing county sheriffs to the level of court bailiffs and managers of the county jails. A struggle between sheriffs and state constabularies impends. While the creation of county police departments to replace the sheriffs has been put forward, the county is a very small area for the maintenance of adequate police service. Bruce Smith, an authority on police administration, says: "So far as the strictly police features of rural justice are concerned, the sheriff-constable system is hurtling from obscurity into oblivion. There is no hope of restoring it to vigor. Nor is there any hope of substituting a county police system." [9] He insists that the county is too small for effective police service and that it would be possible from an administrative point of view to police most of the states by a single force. In states with large metropolitan regions, he suggests that two agencies might be necessary, one for the metropolis, another for the rest of the state.

In the event of the passing of the sheriff as a peace officer, the argument as to his appointment or election is inconsequential. Even though he is not abolished, the sheriff may retire to such a minor rôle that few would be interested in how he secured his office. He might, as one student of the problem has said, "retire to the humdrum

[9] Social Science Research Council, "Reorganization of the Areas and Functions of Local Government," *Bulletin*, 1932, p. 28.

routine of an exalted court bailiff—a rôle which many of them are all too ready to assume as it is, even though we are still depending upon them to suppress crime and to function as detectives." [10]

The prosecuting attorney is another whose position in a plan of county departments is a moot point. Although he gives legal advice to the county, he is engaged primarily in the maintenance of law and order in the name of the state. It is improbable, therefore, that any county managers of the future will appoint prosecuting attorneys. So far, the common practice has been to elect them. This permits individual counties to have the kind of prosecutor and the type of prosecution which they desire. While this may satisfy the people of the county, it is often detrimental to the interests of the state as a whole. The office too often falls to an eager young attorney who has behind him no long career as a public servant. Sensational cases are energetically prosecuted in the face of election day. Local interests will beat upon the door of a prosecutor as long as his incumbency depends upon public favor. The logic of the situation calls for an appointed attorney responsible to state rather than to local authorities. Appointment of the prosecuting attorney by the state attorney general is feasible. It would then devolve upon the county board or some county official to appoint a legal adviser for the county. The Model County Manager Law provides that, "The county manager may employ an

[10] K. H. Porter, "County Government and State Centralization," *National Municipal Review*, XXI, 1932, p. 491.

system for employees, the executive budget and centralized purchasing are among such improvements. Extreme variations in the population and resources of counties make it impossible to apply all these standards to all counties. But present methods are in need of overhauling.

This is true of county personnel. The direct election of important administrative officers of the county and the appointment by them of employees has produced a county spoils system. Employees are retained for their support on election days. The merit system means the selection, retention, and promotion of employees upon merit and ability, not upon political influence. The introduction of a merit system in county government necessitates, first of all, a classification of positions, so that reasonable and equal compensation may be paid for similar work, regardless of the department by which the employee is hired. It means uniform rules as to hours of work, leaves of absence, time lost through sickness, methods of promotion, demotion, and retirement. By a merit system, employees can be assured security of tenure founded upon efficiency rather than retention based upon political vicissitudes. In state and city, the merit system operates through civil service commissions. Since the number of employees of the average county is so small that it would be unwise to have a civil service commission for each county, the system must, for the average county, be operated through the medium of a state commission or by arrangement with some other county or city. In only a few of the more

than 3,000 counties of the United States is there any effective merit system. As Charles P. Messick, Chief Examiner and Secretary of the Civil Service Commission of New Jersey, summarizes the situation: "Four or five counties only have a separate personnel agency. In 14 to 20 more, the State personnel agency, either directly or through delegated authority, is making some serious effort to administer the county personnel functions in accordance with modern practice. In possibly another one hundred counties there is some semblance of personnel regulation, but almost altogether inadequate and ineffective." [13]

Westchester County, New York, furnishes a recent example of the movement for the merit system. A plan for the reclassification of the 2,500 employees of Westchester County on the basis of employment and promotion for merit was recommended by the 1932 report of Fred Telford to the board of supervisors. The plan, which provided for a personnel officer to take charge of employment and promotions, was adopted by the Westchester County board. In New York State, final decision as to the feasibility of the merit system in a particular county rests with the civil service commission of the state. In 1932, Hamilton County, Ohio, likewise established an organized personnel system. A salary standardization and classification plan was adopted and a personnel officer appointed by the county commissioners. The personnel systems adopted in Westchester and Hamilton Counties rep-

[13] *The United States Daily*, July 12, 1932.

resent "the most advanced thought in civil service circles." [14]

Need for the merit system is apparent in the nepotism that honeycombs county work. In recent years, the Congress of the United States has been roundly scored for the practice of nepotism, the appointment by Congressmen of relatives to clerical and secretarial positions. Wayne Gard, in a scathing review of these "Kinsfolk of Congress," assures us that: "Nepotism is the most sacred of all sacred cows. Our National legislators will fight to the last thunderbolt to keep their deserving wives, children, and thirty-second cousins on the payroll." [15]

Nepotism in county government receives less notice from press and periodicals, but it is even farther flung. Occasionally, an official survey in a particular state flails the practice. The report of the California Commission has this to say: "Nepotism, or the appointment of relatives by officers to be their deputies or assistants, is probably the most serious evil in the county personnel situation. In practice, nepotism means often that the county pays for services which are only partially rendered, and there is also a most serious effect on the morale of the office and even on that of other county offices." [16] It is no wonder that this is the case in county government, for it is so de-

[14] H. W. Dodds, "Editorial Comment," *National Municipal Review*, XXI, 1932, p. 586.

[15] Wayne Gard, "Kinsfolk of Congress," *Vanity Fair*, August, 1932, p. 20.

[16] California Commission on County Home Rule, "County Government in California," 1930, p. 152.

signed that relatives may fatten upon the county larder. Of the sheriff of Oakland County, Michigan, it was said in 1932: "He has, besides an official residence, a salary of $7,000 a year. His wife draws $1,500 a year as matron, and his son $1,800 as night desk man—a cash income for the family of $10,300 a year." [17] The reform of county personnel administration should go hand in hand with revision of the governmental outline. The county has no obligation to carry the relatives of officials upon its payrolls. Several states have legislated against appointment of relatives by county officers. This is a practical step, but only a second best for the merit system.

An executive budget is another essential factor in the technique of administering rural government. It depends upon the presence of a chief executive in the county hierarchy. Under such a financial system, the various departments prepare estimates of expenditures for the next fiscal year. The chief executive officer, or a central budget agent for the chief executive, revises the departmental estimates to conform to a general fiscal policy. The budget, as revised, goes to the county board for consideration as the basis for appropriations. After the appropriations are made, during the fiscal year, there must be a series of accounts to show how much of its appropriations a particular department has expended. Unless the finance agent enforces the budget by keeping the officers within their appropriations, the budget is ineffectual.

Our counties do not approximate any such method.

[17] T. H. Reed and Associates, "Oakland County," 1932, p. 96.

Without a chief executive to formulate a budget, the board simply makes appropriations on the basis of the last year's grants, and the urgency of appeal from county offices. If the county officer incurs obligations beyond the appropriations made, the usual practice is to oblige him with a supplementary amount. Although there is a compulsory budget law for counties in Ohio, R. C. Atkinson tells of one county which he visited in 1932 in that state where "the county board authorized the book-keeper at the close of the year to credit the various accounts with such supplementary appropriations as might be necessary to cover the amounts actually expended. . . . In another county the officials are so fearful that they may make an expenditure for which there has been no appropriation that they make a special appropriation for every batch of bills approved for payment, thus entirely nullifying the annual appropriation." [18]

A uniform system of county accounts is equally necessary to effective administration. From these accounts, the state could require counties to file uniform reports of their expenditures. The responsibility then rests with the state to make the information thus obtained available to the people by an annual report on county finance. In state after state it is difficult to get accurate information on the cost of county government. In seven states—California, Indiana, Massachusetts, Mississippi, New York, Virginia, and Wisconsin—central state agencies publish reports analyzing county expenditures by functions. In other states,

[18] R. C. Atkinson, *op. cit.*

counties file with central state agencies reports from which county costs may be compiled. The duty is up to the states. The Federal Government cannot develop comparative tabulations of county costs for the nation when state reports are lacking. The latest Federal tabulation was in 1913. As Clarence Heer puts it: "As long as there are so few states with central agencies charged with the duty of collecting current statistics of county finances, and as long as the present state of anarchy in the matter of county record keeping persists, it will be possible for the Federal Government to develop comparable data on the costs of county government only by sending out field agents to deal more or less separately with the various financial officials of over 3,000 different counties." [19]

State Control of County Finance

The reform of governmental structure and administrative methods is not the only avenue which has been tried to obtain savings in local government. Economy in government has also been sought through state review of the budgets of local units. Much of the controversy over this question has centered around the alleged success or failure of the "Indiana" plan. In Indiana, pursuant to a complaint by ten or more taxpayers, the state board of tax commissioners may review the tax levies of local units including counties. They may affirm or decrease the total

[19] Clarence Heer, "Comparative Costs of County Government in the South," paper read at the Virginia Institute of Public Affairs, July, 1932.

tax levy or any item, and their action is final and conclusive.[20] Wylie Kilpatrick has studied in detail the operation of the Indiana plan from 1923 to 1929. He ascertained, during these years, that an estimated aggregate local expenditure of $1,269,975,079 was reduced by $15,800,670, or 1.24 per cent. Nevertheless, in the course of the seven years, local expenditures rose 10.54 per cent.[21]

In New Mexico, state control of the local budget process has been carried to even greater lengths. The state tax commission has power and is charged with the duty of requiring local units, including counties, to file each year a statement of their financial condition and their financial needs for the next year. The commission has power to amend, revise, correct, and approve budgets. Its decisions are binding on all tax officials of the state.[22] The chief merit of the New Mexico plan, in the opinion of Wylie Kilpatrick, "consists in the stabilization of the tax burden by stemming the general rise in taxes and not in a careful examination of budgetary costs which was lacking except for schools." [23]

Another scheme is that found in Oregon. There a tax supervision and conservation commission is created for any county that has or shall attain a population of 100,000 or more people. Such a commission, appointed by the governor, has power to review the budgets of Multnomah

[20] Indiana, *Statutes*, 1926, Sec. 14239.

[21] Wylie Kilpatrick, "Tax and Expenditure Control," *New Jersey Municipalities*, Dec., 1931; Jan., 1932. Reprint, p. 4.

[22] New Mexico, *Statutes*, 1929, Sec. 141-507 (8).

[23] Wylie Kilpatrick, *op. cit.*, pp. 6-7.

County and its governmental subdivisions. This commission may approve, reject, or reduce the budgets or any items. By a unanimous vote of all members of the commission and upon written request of the tax levying board, budgets may be increased if the commission deems an emergency to exist.[24]

Another method of controlling expenditures has been the development of constitutional or statutory tax limits in many states directed against one or more local governmental units. Corollary to state supervision of local tax levies and the limitation of tax rates, are state limitations on local indebtedness. Constitutional limitations on the indebtedness that a county may incur are common. Such limits are generally fixed at a certain percentage of the assessed valuation. Indiana supplements the power of the state tax commission to reduce budgets of local units with state control of local indebtedness. The state board of tax commissioners, pursuant to a complaint by ten taxpayers against a proposed local bond issue of more than $5,000, has final determination of the amount of bonds which may be lawfully issued.[25]

In general, state supervision of local budgets and bond issues is growing. North Carolina reflected this trend in 1931 by giving to a revised Local Government Commission extensive supervisory power over local bond issues. The approval of the commission is requisite to the validity of any bond or note of a county, municipality, or other

[24] Oregon, *Code*, 1930, Sec. 69-1206.
[25] Indiana, *Statutes*, 1926, Sec. 14240.

subdivision. The commission has power to determine whether any proposed bond issue or note is necessary or expedient, and whether it is adequate and not excessive. Bonds can be issued only to such amount as the Commission approves, unless by action of the voters of the local unit concerned.[26] "One of the most drastic features of the act," as Paul W. Wager writes, "is the provision that in case any unit defaults in the payment of a debt obligation, the director may appoint an administrator of finance (virtually a receiver) to take full charge of tax collections and the custody and disbursement of all funds." [27] Increasing state supervision of county budgets and bonds must be anticipated, unless the administrative structure and financial methods of counties are radically improved.

Reorganization of County Administration

So long as we depend upon the county to administer important functions, the revitalization of this unit of government is essential. Some states have begun to transfer existing county functions to state administration. The tug of war between county and state has started. Are roads to be built and maintained by the state alone, by the state and county, or by the state, county, and township? What unit, or combination of units, is going to handle public health administration in the future? Is the county poorhouse to give way to the multi-county almshouse? The

[26] North Carolina, *Code*, 1931, Sec. 2492 (10)-2492 (12).

[27] P. W. Wager, "Current Developments in Local Government in Virginia and North Carolina," pamphlet, 1932, p. 12.

county no longer administers various functions in some regions. Witness the transfer of county roads to the state in North Carolina and Virginia, the appearance of the district almshouse in Virginia, and of the district health unit in Michigan. These steps lessen the value of the county as a unit for local self-government. The small area of many counties is one of the things that has made them vulnerable. In the absence of county consolidation, state centralization or functional consolidations are natural alternatives.

If the goal is the preservation and the reorganization of county government, then the development of county departments is an essential move in that direction. A headless county government, with a number of independent officials performing disintegrated tasks, is the instrumentality with which most states are attempting to govern. Montana and Virginia, in their optional manager laws, made available to counties a plan of county departments to replace the existing elective officers. A chief executive and an orderly scheme of departments can do much to solve the administrative hodge-podge of counties. To supplement these fundamental reforms, improvements in administrative technique are necessary.

CHAPTER VIII

COUNTY CONSOLIDATION

ECONOMIC life has been revolutionized by developments in transportation and communication. Political life has undergone no similar revolution. When the first horseless carriage made its uncertain way down the road, the onlookers, in spite of other fears, probably did not foresee its ultimate political complications. The speed of modern locomotion has rendered governmental boundaries obsolete. The county of to-day seems like the township of yesterday. Therein lies the problem of areas. Improved methods of communication, as well as of transportation, contribute to the reduction of distance. The motor car alone is not responsible; railroad, telephone, and paved highways play their parts. No modern corporation organizes its plant and distribution facilities to fit trade areas of the last century. Yet that is the basis on which county government is functioning. Given a clean slate, no legislature to-day would tesselate a state into hundreds of counties. But those areas persist which were carved out upon the theory that a county shall be of such size, and the county seat so located, that a farmer can drive to the courthouse and back, with horse and carriage, between sunrise and sunset. They were and

remain organized to suit an age in which distance was the insuperable barrier. The generation which witnessed the replacement of blacksmith by service station was too absorbed in economic adjustments to worry about the effect upon political boundaries. But this generation is becoming aware of the obsolescence of county areas.

There are still those, however, who do not believe that the number of counties is excessive. Governor "Alfalfa Bill" Murray of Oklahoma raised his voice in protest against county consolidation. He agreed that the man with the hoe may travel to the county seat by auto with despatch. Yet, as he said, "There are a good many people who own no automobiles, who must needs travel in buggies and wagons (indeed, there ought to be more of such classes without automobiles) and it would be a hardship and a burden upon them to force them, just because they own no automobiles, to travel long distances to perform their duties as citizens of the county." [1] But defenders of the horse-and-buggy county are a diminishing minority. The consensus of modern opinion is that there are too many counties.

Many counties are poverty stricken to-day. It is impossible for the rural taxpayer to support them all in consequence of increased demands upon government. State aid has been more and more relied upon to make county ends meet. The auto not only made the existing number of counties unnecessary, but it has contributed to making some

[1] Quoted in *Report on a Survey of the Organization and Administration of State and County Government in Mississippi*, 1932, p. 660.

of them economically unsound. For the auto needs paved highways, and these have put heavy burdens on the county exchequer. There are other services now required of counties: health protection, hospitalization, more welfare work. These demands drain county finances. Another cause of impoverishment lies in the change of economic centers. What was once a rich lumber district may now be a cut-over and abandoned waste. Introduction of machinery and organized agriculture have made many small farms unprofitable. While county taxes have increased to provide additional services, the county dwellers' ability to pay has often decreased. Failure to pay taxes means abandonment of land and its reversion to the state. The rate at which this process is going on is alarming. The existing number of counties is not only unnecessary; it is financially impossible to support so many counties without state subsidization.

Consolidation of these areas now dwarfed by rapid transit and impoverished by modern demands upon them, is an issue faced by inhabitants of counties with small population, low valuation, and meager income. Until they are convinced of the advantages of consolidation, little can be expected. No state legislature will cram comprehensive consolidation down their throats. Such a course would mean political suicide on the part of the legislators and revolt on the part of the farmers. Consolidation of counties is as vital as rehabilitation of their internal structure. The best governmental mechanism yet devised could not maintain essential services at reasonable cost without state

aid in our pauper counties. Reorganization of county boundaries, to coincide with regions of economic and social significance, comes first. It is the starting point for internal reorganization. Retention of marginal county governments means not only inefficiency, but it means abandonment of farms.

County consolidation in its simplest form means that two or more counties will become a single unit of government. In place of four counties 500 square miles in area, with four complete sets of county officers, a single county could serve an area of 2,000 square miles with one board and one set of officers. The process of elimination is not confined to offices. It would entail abolition of three county seats with their courthouses, poorhouses, and jails. So far, there have been few instances of this type of general consolidation.

Instead of complete consolidation of county governments, consolidation of specific county functions has been tried. A single group of administrators handles a particular function for a district covering more than one county. Under this plan, counties unite to maintain, for example, a district health organization, a hospital, or an almshouse. Functional consolidation is based, first, upon the theoretical principle that each function needs a different geographical area, and, second, upon the pragmatic principle that it can be accomplished more readily than general governmental consolidation. Each area can be cut to fit the particular service rendered. This type of consolidation of functions has found wider use than general

consolidation. Should counties consolidate into large units, or should they coöperate with others in joint functional undertakings?

Proposals for County Consolidation

The size, population, and valuation of many counties do not permit the maintenance of services at reasonable cost to-day. Subsistence of local units which are low in taxable capacity entails excessive tax rates, heavy indebtedness, increase of state aid, and reversion of land to public ownership. Demands for more services, and for services better performed by county governments, are pushing in the direction of consolidated units which can pay their own way.

County consolidation has been urged time and again by state governors, official and unofficial commissions, and countless private investigators. Specific recommendations have rarely come to fruition. Alfred E. Smith left behind him a remarkable reorganization of state government in New York, but his plan to incorporate the counties of the state into a number of consolidated units never materialized. In 1926, he told the legislature of the "growing conviction that there are too many counties and that there are certain counties which should be consolidated." [2] He recommended that the State Reorganization Commission be continued, to study county and town government. His tentative proposals for reform called first for the wiping out of county and borough governments within New York

[2] *The New York Times*, March 16, 1926.

City. As to Westchester and Nassau Counties, he urged the replacement of existing county, town, and village governments by a single city government for each region. Outside New York City, he suggested that the number of counties could be cut down to everyone's advantage. His preliminary recommendations included twelve consolidations of two counties each, and three tri-county mergers. A state commission in his opinion could best decide upon desirable combinations.[3] One year later, Governor Smith renewed his recommendation for a commission to study the consolidation of counties, but no tangible results were forthcoming.

After a lapse of five years, consolidation for the counties of New York State was again urged. A Memorandum of the Institute of Public Administration to Governor Franklin D. Roosevelt advocated a more equitable distribution of local burdens by means of consolidation. Later in 1932, Governor Roosevelt asked the legislature to create a commission to study the reorganization of local government. He advocated a series of amendments to the constitution of New York to "authorize consolidation of many existing units of government."[4] To these gubernatorial promptings the legislature turned a deaf ear.

Embedded in numerous messages to various other state legislatures is much plain speaking on the subject of county consolidation. Retiring from office in 1931, Governor Fred W. Green told the Michigan legislature that we are

[3] *The New York Times*, March 11, 1926.
[4] *The New York Times*, March 1, 1932.

continuing unnecessary county officers to satisfy "local pride and provide a living for the office-holding class. We should join our counties together in groups." In the same year, Governor O. Max Gardner of North Carolina recommended to the serious consideration of the North Carolina legislature the "mandatory consolidation of some counties." Governor Harry G. Leslie of Indiana told the legislators in 1931 that an enabling act permitting townships or counties to combine "would provide one means of relief for the taxpayer." The recurrent theme behind this general feeling for consolidation is the change in means of transportation and communication. Unlike Governor Murray of Oklahoma, who stood for existing boundaries as a convenience to farmers without automobiles, these state executives emphasized the effect of improved transportation in diminishing the need for so many counties. Governor Green insisted, "We are living in an aeroplane age, content with a horse-and-buggy local government. The automobile has made it possible to combine counties with no lessening of services to the people at much less cost." In a similar vein, Governor Gardner said of North Carolina, "Many of our one hundred counties would never have been created, of course, if at the time we had had the transportation facilities of to-day." Governor Leslie admitted that there were good reasons at the time of their inception for numerous local units. "However, in this modern age, when distances have ceased to be formidable and urban facilities have made all sections kin, the reasons

for our numerous expensive political units have become obsolete." [5]

The pages of state surveys express the need for county consolidation and offer recommendations as to specific groups of counties. The 1930 report on county government in North Carolina recommended ten consolidations of two counties each and one merger of three. It also suggested that the state consider five other two-county consolidations and the apportionment of one county between two adjacent counties. This survey demonstrated that the specific consolidations recommended would create only one county of more than 1,000 square miles. Two would have less than 500 square miles, and the remaining consolidated units would have an area between 500 and 900 square miles. In every instance consideration was given to the accessibility of the proposed county seat by good roads. Assessed valuation and population of the combined counties were likewise estimated.[6]

The Virginia Commission on County Government reported to the state legislature that sixteen counties had, in 1930, for purposes of local taxation, less than $8,000,000 apiece of estimated wealth. The Commission argued "that the only way for these counties to secure good government at reasonable cost is to adopt some form of consolidation or coöperation. For those counties that are unwilling to consolidate their governments, the consolidation

[5] These excerpts are taken from "Messages of the Governors," *The United States Daily*, Supplement, Feb. 16, 1931, pp. 43, 69, 70.

[6] Institute for Government Research of the Brookings Institution, "County Government in North Carolina," 1930, p. 22.

of functions would accomplish the same purpose in a less satisfactory way. That is to say, two or more counties might form an administrative area for the joint operation of certain functions, such as poor relief, public health, highway construction, public welfare, public education and the administration of justice." [7]

In a similar vein, the 1932 report on county government in Mississippi indicated "that merging of counties in Mississippi might contribute in substantial measure to improvement in the efficiency and economy of local administration." [8] For example, the report proved that a combination of Sharkey and Issaquena Counties would create a consolidated unit of 828 square miles in area with a 1930 population of 19,611 and an estimated true valuation for 1929 of $20,441,825. It was predicted that consolidation would permit Sharkey and Issaquena to reduce their combined administrative costs by one-fourth or one-third, and yet obtain a better public service. The specific recommendations included five consolidations of two counties, five triple-county and one quadruple-county merger. The survey also urged that consideration be given to five other possible combinations involving twelve counties. These mergers altogether would involve the reduction of Mississippi's counties from a total of 82 to 57.[9]

A review of Georgia's tax system in 1930 by Harley L.

[7] Virginia Commission on County Government, *Report*, 1931, p. 81.
[8] Institute for Government Research of the Brookings Institution, *Report on a Survey of the Organization and Administration of State and County Government in Mississippi*, 1932, p. 684.
[9] *Ibid.*, Chap. 42.

Lutz revealed the need for county consolidation there. Of the 161 counties in the state, 42 had assessments ranging from $1,000,000 to $2,000,000, while seven had assessments of less than $1,000,000. Under the auspices of the Georgia Tax Revision Association, a concerted drive toward county consolidation with newspaper support began. As a result, Georgia did something other than place the recommendations on file for future reference, as has so often been done. A tri-county merger in 1932 united Fulton, Milton, and Campbell Counties.[10]

In state after state, citizens' committees and public officials are developing projects for county consolidation. In Missouri it has been suggested that the 114 counties be reduced to 40. A bill to unite the 105 counties of Kansas into 40 larger units was done to its death in a committee of the state legislature. In Arkansas the proposal has been advanced that the 75 counties of the state be reduced to one-third their present number.[11]

The Number and the Area of Counties

There are now some 3,068 counties in the United States. This total does not include city-counties of Baltimore and St. Louis, the first-class cities of Virginia, nor a few unorganized counties. More than 3,000 counties is a vast number, even for continental United States. Although Delaware, Rhode Island, and Connecticut have only three,

[10] Cf. Orville A. Park, "Progress in County Consolidation," paper read at the Virginia Institute of Public Affairs, July, 1932.

[11] Cf. J. W. Manning, "The Progress of County Consolidation," *National Municipal Review*, XXI, 1932, pp. 510-514.

five, and eight counties respectively, a number of the states have more than one hundred each. A surplus of counties is an ill wind that blows no one good but the office-holders.

These 3,068 counties vary tremendously in size. New York County, New York, has an area of twenty-two square miles; San Bernardino County, California, has over 20,000 square miles. The typical rural county has an area of 400 to 700 square miles. The East North Central States—Ohio, Indiana, Illinois, Michigan, and Wisconsin—with a total population of 25,297,185 in 1930, and a land area of 245,564 square miles, have 436 counties. The Middle Atlantic States—New York, New Jersey, and Pennsylvania —with a total population of 26,260,750, and a land area of 100,000 square miles, have 150 counties. The counties of the East North Central States average 563 square miles; those of the Middle Atlantic States average 667 square miles. In the South Atlantic States—Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida—the counties averaged, in 1930, only 465 square miles in area. These states, with a total population of 15,793,589, and a land area of only 269,073 square miles, had 578 counties. The tri-county consolidation in Georgia in 1932 reduced the number to 576, and brought the average area to 467 square miles. The Pacific States—Washington, Oregon, and California —had, in 1930, a population density of 25.8 persons to the square mile. In this region the average size of counties was 2,391 square miles. By the same census, the West North Central States—Minnesota, Iowa, Missouri, North

and South Dakota, Kansas, and Nebraska—had a population density of 26 persons to the square mile and counties which averaged 825 square miles in area. While the average size of counties is smallest in the South Atlantic and East South Central States, it is highest in the Mountain States. That sparsely settled region has counties which average 3,101 square miles. In view of modern conditions, counties should have a minimum of 2,000 square miles area in many states where they now average 400 to 500 square miles.

An analysis of county population living outside incorporated communities in various states furnishes further evidence of the need for county consolidation. Forty-seven per cent of the counties in Michigan have less than 10,000 people in the unincorporated rural areas. Forty per cent of the counties of Illinois, 32 per cent of the counties of Virginia, 29 per cent of the counties of Indiana, almost 24 per cent of the counties of Wisconsin, 18 per cent of the counties of North Carolina, and 10 per cent of the counties of Pennsylvania fall in the same category.[12]

County Consolidation—Pro and Con

Practical hindrances beset county consolidation on all sides. First, there is the intensity of local pride. People are born, they live, and they die in Paducah, Osceola—whatever name you will—County. Change in boundaries upsets the political continuity of their lives. They cling

[12] A. W. Bromage and T. H. Reed, "Organization and Cost of County and Township Government," 1933, Appendix B, Table No. 45.

to these political preserves, not for sentiment alone, but for what they believe to be their vital self-interest. Mergers with other counties mean that relatives and neighbors may no longer hold county office. Political satraps may be overlooked by other sections of the consolidated district and never come within hundreds of votes of the consolidated courthouse on election day.

Second, the courthouse officers stand arrayed against consolidation. In a Mid-Western state, a county official once described with pardonable vanity how he had quashed talk about cutting his county in two and consolidating one section with the county to the west and the remainder with the county to the east. He had argued that three sets of county officials were in existence. The proposed merger would necessitate that each official of the remaining two counties have an assistant. Thus four county officers would bloom after consolidation for every three that existed before. County officers prefer to hold their sinecures in the family and neighborhood circle rather than risk defeat in a larger and mayhap hostile arena. Massed behind these elected officers are the appointees who have positions at the courthouse or elsewhere in county administration, and are well satisfied with existing conditions whatever the area of the county. This inner circle is opposed to consolidation, for it means loss of at least one county seat and reduction in staff.

Officers and employees are not the only ones who see no merit in county consolidation. Merchants stand to lose trade by the removal of county headquarters to another

community. Around every county courthouse is a set of lawyers whose interests would be affected by its closing. So it goes. Not all the groups that surround county courthouses are visible at first glance. Their stakes are not so great as those of office-holders, but they swell the ranks of opposition to consolidation.

Third, reduction of county seats precipitates the very practical problem as to the disposition of disused courthouses, jails, and poorhouses. Unless arrangements can be made for their use by the communities in which they are situated or by some private agency, their future use is a problem. To make these buildings district branch offices of the consolidated unit might take the sting out of the consolidation. But it might also remove much of its value. Once consolidation is affected, comes the question of the adequacy of existing physical properties for housing the new unit. Will the courthouse that served a county of 500 square miles be suitable for a consolidated district of 2,000 square miles? Governments face difficulties parallel to those of individuals in this respect. They secure land, build physical properties, and become entangled in economic circumstances.

Fourth, there are variations between existing counties in taxable wealth, tax rates, public indebtedness, and public improvements. If it be proposed that a well-to-do county join forces with a pauper county, the opposition of the former is natural. Such a merger appeals to the far-sighted residents of the poor county, if their self-interest is

enlightened. Variations in public improvements and public indebtedness raise the same issue.

Fifth, county consolidation brings with it no guarantee of efficiency or of reduction in costs. It is difficult to estimate in advance the savings that will accrue from any specific consolidation. They can be roughly gauged, provided the new county is run efficiently and the services and functions are not radically altered. There is real advantage to the people of a small county to consolidate with a wealthy neighbor, but all are not familiar with the pleasant experiences of James County in consolidating with Hamilton County, Tennessee, and the public grudgingly endures existing governmental costs rather than venture the vicissitudes of consolidation with probable savings.

Finally, as in so many other phases of county government, there are the legal barriers. Changes in areas of counties are subject to whatever constitutional provision the particular state may have regarding removal of county seats, and merger and division of counties. More than one-half the state constitutions require a referendum for the transfer of county seats. County consolidation, like the county manager plan, encounters definite legal obstacles. These are numerous, and opponents are powerful.

The drawing card of county consolidation is the financial saving it might bring the harassed taxpayer. In the smaller counties the cost of administrative overhead is relatively greater than in larger ones. Bigger units should bring reduced overhead costs. Another reason to expect economy from consolidation is that the area of the typical

county is no longer suitable for maintenance of various services, such as health and welfare work. This is seen in the growing practice of grouping several counties as a health district. Consolidated counties should have adequate population and valuation to afford trained employees without prohibitive taxation and increased state aid. This is naturally a relative matter, and depends largely upon the consolidation of pauper and prosperous counties wherever possible.

Since some overhead expense is incurred by any county, no matter what its area or population, and since this cost does not vary directly with the area or population, it is logical that these costs should bear more heavily upon sparsely populated counties than when distributed among the taxpayers of more densely settled units. It is conceivable that a consolidated county, by increasing services or putting them upon a professional basis, might absorb anticipated savings.

An Ohio report for 1932 definitely ascertained that "the cost of conducting county government is relatively greater in small counties than in large." It demonstrated that in "both the poor and the comfortably fixed counties the per capita cost of the standard elective offices rises sharply as the population falls below 50,000." [13] In Michigan the per capita cost of county government is greater in counties of small population. In the fiscal year 1931, Cass County, with a population density of 42 persons to the square mile,

[13] The Ohio Institute, "County Organization and Government in Ohio," 1932, pp. 16-17.

had a per capita governmental cost of $9.44. In Antrim, the density figure was 21 and the per capita cost, $21.39. Iron County, with 17 persons to the square mile, had a per capita cost of $23.11. Luce, with a population density of 7, had a per capita cost of $29.40. In Roscommon, the density figure was 3.8 and the per capita cost, $37.20. These figures demonstrate the severe burden of county government in regions with a low population density.

It has been estimated that a reduction of the number of counties of Kentucky from 120 to 20 would result in a saving of $3,000,000. In making this estimate, J. W. Manning says: "Assuming that there are fifteen offices in each of the 120 counties, or a total of 1,800 county officials in the state, with an annual expenditure of $2,000 per year, this means a total cost of $3,600,000 for the item of administrative overhead alone. With this thought in mind, it has been suggested that the state be recast into some twenty counties. . . . Under this scheme each county would have an average area of 2,029 square miles and an average population of some 120,000. Assuming the same number of offices per county as under the present scheme, this would mean a reduction of offices from 1,800 to 300, and, with the same cost per office, there would be a total expenditure of only $600,000 as compared with $3,600,000 under the present scheme—or a saving of $3,000,000 annually for the item of upkeep alone." [14] This prediction rests upon the assumption that the same total number of officers will suffice for the twenty consolidated counties

[14] J. W. Manning, *op. cit.*, pp. 513-514.

covering the entire state as for twenty small counties of the old type covering approximately one-sixth of the state.

A study of typical counties in Michigan showed that the cost of general administration was not reduced proportionately in counties with a low population density. Antrim County, with 9,979 residents, expended $14,849 in the fiscal year 1931 for general administration, including the cost of the board of supervisors, courthouse and grounds, elections and the offices of treasurer, clerk and register of deeds. During the same fiscal year, Luce, with 6,528 residents, spent $12,456 and Roscommon with 2,055 inhabitants expended $12,268 for general administration. A consolidation of counties should bring material savings in the costs of general administration. It was estimated that a consolidation of four counties would mean a saving of from 50 to 60 per cent of the existing costs of general administration. As to judicial administration, it was believed that costs could be reduced from 30 to 40 per cent by county mergers in sparsely settled areas. Although county consolidation would not necessarily achieve material savings in such activities as roads and public welfare, reductions might readily be accomplished thereby in the administrative overhead of these functions.

Another estimate of savings to be made by the consolidation of local units comes from Oklahoma. There the State Chamber of Commerce has suggested that the 77 counties of the state be consolidated into 20 at an estimated annual saving of $17,000,000. This plan, as Lionel V. Murphy writes, would abolish "all of the 965 townships

with a saving of $3,000,000 annually. It also reduces the 5,000 school districts to 2,000 with a claimed saving of $1,000,000 yearly." He holds it improbable that the plan could attain these estimated savings, but argues that much could be done by consolidation.[15]

Saving the taxpayer's money is not the only reason for consolidation. Existing counties are too often artificial units. Their boundaries rarely conform to natural trade areas. They tend to divide economic and sociological regions into several bodies politic and quasi-corporate. Consolidated counties could be made to coincide more closely with actual community areas. This involves detailed studies of geographical features, road facilities and trade areas. Recognition of trade areas is the natural basis for county consolidation. This implies deliberate and comprehensive regrouping of rural regions. In the case of counties that actually have consolidated, the process has more often been one of expediency.

County consolidation involves re-allocation of county seats. The location of some headquarters can be explained only by the politics of the year in which the counties were organized. Outstripped by other communities, these towns tenaciously defend their headship. County consolidation, properly managed, would open the way to establishing county seats in logical trade centers.

County areas were originally fixed in a rough ratio to existing roads and transportation by horse and wagon.

[15] Lionel V. Murphy, "County Consolidation Talk in Oklahoma," *National Municipal Review*, XXI, 1932, p. 583.

With modern highway systems and with the automobile, man has a mobility to which the consolidated county of the future should be adapted. One argument for county consolidation rests upon the advisability of creating counties whose areas will be fixed in a rough ratio to the highways and to the transportation facilities of this era.

County consolidation offers one means of reserving to rural regions some measure of local self-government. Larger county units, more capable of administering roads, health, welfare, and other functions, lessen the tendency to centralize these services in the hands of the state. This is no theoretical eventuality, but a real probability. Such legislation as that of North Carolina and Virginia in transferring county roads to the state, if followed by other commonwealths and extended to additional functions, would soon make county government and administration a subject for the historians. The efficiency of larger units should diminish this trend.

County Consolidation in Practice

The annexation of James County to Hamilton County, Tennessee, was effected in 1919. It was a union of a poor rural county and a relatively affluent urban neighbor. The consolidation was a unilateral agreement, for Hamilton County had no voice in the matter. The state legislature authorized the consolidation by a local referendum in James County alone. The larger and more prosperous County of Hamilton, which contains the City of Chattanooga, had to accept the merger willy-nilly, when the

people of James County seized the opportunity extended to them by the legislature. The act required James County officers to transfer their records, funds, and other property to like officers in Hamilton. Title to all James County property passed to Hamilton and the indebtedness of James became an obligation of Hamilton. When James County consolidated with Hamilton, the former had about two miles of paved highway and its rural schools operated only three or four months of the year. Heavy taxation prohibited industrial expansion. The people of James County did the wise thing in tying their interests to those of Hamilton. Taxes were reduced, more paved roads were built, and the school year was lengthened. The old county courthouse became a public school. The consolidated county of 548 square miles had, in 1920, 115,954 inhabitants. The population rose to 159,497 by 1930.

The statement has been repeated that this consolidation cut the costs of county government to the people of James County approximately 50 per cent. This estimate is based upon the striking reduction made in the net county tax rate of James County. In the last two years before consolidation, the tax rate was respectively $2.01 and $1.95 on every hundred dollars of valuation. The first two levies after consolidation were $1.02 and $1.05. The sudden drop cannot be attributed entirely to the benefits of consolidation. Revaluation of property accounted in part for the reduction. "This remarkable decrease of nearly a dollar in the tax rate," in the opinion of Wylie Kilpatrick, after a careful check, "is explained largely by a state-wide

revaluation of property that reduced tax rates throughout Tennessee."[16] He estimates that the true saving to people in James County attributable to consolidation was approximately thirty cents on the net county tax rate. His estimate is a saving of about 15 per cent rather than the 50 per cent so frequently cited. Whatever the exact economy, this pooling of resources was advantageous to James County. Benefits of the merger cannot be judged by tax rates alone, but also by the increased services to that region.

After the annexation of James to Hamilton County, proposals for realignments of other Tennessee areas sprang up within a few years. Residents of the neighboring county of Meigs were impressed with the advantages obtained by James County in scrapping its separate government. They sought to join the Hamilton bandwagon. At the time that Meigs desired annexation, its local tax rate was approximately $4.00 on the hundred, whereas the enlarged county had a rate of $1.40. However, Meigs failed to obtain legislative authorization. The success of the consolidation of James and Hamilton Counties gave the exponents of larger counties a talking point. A. P. Chidress, as state tax superintendent, suggested that the counties of Tennessee be combined into eleven units. This plan, like all others for comprehensive regrouping, brought no practical results. James County is one of the rare examples in which debate over consolidation resolved into

[16] Wylie Kilpatrick, "Problems in Contemporary County Government," 1930, pp. 320-322.

action. On this issue, as on so many others in political life, American politics have been ruled by special interests.

Twelve years later, another significant county consolidation appeared, this time in Georgia. As is generally the case in the South, the counties of Georgia are small in size. In 1930, Georgia had 161 counties averaging approximately 365 square miles each. Ninety-eight of the 161 counties decreased in population between 1920 and 1930. Many had extremely low valuations, approximately 30 per cent having less than $2,000,000 assessments as determined in 1930.

In 1929, the Georgia legislature provided that Campbell might consolidate with Fulton County, by a two-thirds majority of those voting on the question in Campbell and a majority vote in Fulton, the property of Campbell to become the property of Fulton, and the indebtedness of Campbell an obligation of Fulton. Two years later, Milton County was permitted to merge with Fulton by a similar process. Favorable action was taken and a tri-county consolidation became effective on January 1, 1932.

In this manner, two sparsely settled counties were merged with Fulton which was largely coterminous with the city of Atlanta. Fulton had, in 1930, a population of 318,587 and a land area of 193 square miles. Campbell had 9,903 residents and an area of 211 square miles. Milton contained only 6,730 inhabitants to its 137 square miles of area. Thus the consolidated county of Fulton attained an area of approximately 541 square miles and a

population of over 335,000 people. Fulton became one of the largest counties of the state. This consolidation reduced Georgia's counties from 161 to 159 in number and increased their average area from about 365 to 369 square miles.

This tri-county may duplicate the experience of the consolidated county of Hamilton in Tennessee. For one thing, Campbell and Milton Counties had tax rates which were considerably higher than the rate in the old county of Fulton. These onerous taxes in Campbell and Milton were consumed by two sets of county officials that were superfluous. "It is said that Fulton has not been obliged to increase appreciably her official personnel in order to care for the business of Campbell and Milton." [17] Additional taxation which the new county of Fulton derives from the old counties of Campbell and Milton permits better and greater services in the annexed regions. Campbell and Milton receive in return for the loss of their identities public health and welfare work, paved roads, improved schools, and many advantages previously unknown. Even though no great reduction in costs results, the taxes will bring greater returns to the payers. They will go for modern functional services rather than for unnecessary officers. The consolidations in Tennessee and Georgia are similar in nature and should produce analogous results. Both instances stand as precedents for the attachment of poor counties to prosperous urban neigh-

[17] Orville A. Park, "Progress in County Consolidation," paper read at the Virginia Institute of Public Affairs, July, 1932.

bors. Far away as the comprehensive regrouping of rural counties may be, these are signs of the times.

A Case for County Consolidation

The consolidations in Tennessee and Georgia point to a happy solution of the problem of poor counties on the outskirts of urban and more prosperous neighbors. This does not solve the troubles of strictly rural regions. So far, the merger of counties in rural districts has made little or no headway. Where it is most needed, consolidation is most violently opposed.

A block of four adjacent counties in the north central section of the Lower Peninsula of Michigan is illustrative of the rural predicament. Crawford, Oscoda, Roscommon and Ogemaw Counties in Michigan have low population, poor soil, low valuation, and small income. Crawford had, in 1930, a population of 3,097; Oscoda, 1,728, Roscommon, 2,055, and Ogemaw, 6,595. Together, their inhabitants totaled only 13,475. The population of Crawford had shrunk 23 per cent between 1920 and 1930. Oscoda lost 3 per cent of her residents, and Ogemaw, 15 per cent in the same decade. Roscommon alone had an increase, and this was 1 per cent. During the same period, Michigan enjoyed a rise in population of 32 per cent. In addition to the four governments with four sets of county officers, these 13,000 people support thirty-six townships, two villages, and two cities. In Roscommon County, the inhabitants are scattered among ten townships: Backus, 15; Denton, 165; Gerrish, 259; Higgins, 460; Lake, 93;

Lyon, 46; Markey, 125; Nester, 83; Richfield, 281; Roscommon, 528. Roscommon village has 412 residents. Without counting school districts, the area covered by the four counties contains forty-four governmental units, or one for every 306 inhabitants. These counties are of average size. Crawford is 575, Oscoda, 576, Ogemaw, 580, and Roscommon, 538 square miles in area. All four together would make a county of only 2,269 square miles.

A survey of soils and land in Michigan gave these counties, except for small portions, an inferior rating. The soils are largely sands and sandy loams. According to the agricultural experiment station of Michigan State College, "They are acid, low in lime, low in organic matter, low in moisture, and low in fertility. . . . The soil originally supported pine forests or mixed pine, oaks, and other hardwoods. The land remains largely in a wild, cut-over condition. . . . Under present economic conditions, the greater part is regarded as third class land or sub-marginal for farming and is best adapted to forestry and recreational purposes." [18] The diminishing number of farms in the years from 1920 to 1930 bears out the story. Crawford had, in 1930, 116 farms, Oscoda, 220, Roscommon, 160, and Ogemaw, 985 farms. During the decade preceding this tabulation, the number of farms in Crawford and Roscommon decreased by 44 and 40 per cent, respectively. In Oscoda and Ogemaw the abandonment of farms was

[18] E. B. Hill, F. T. Riddell and F. F. Elliott, "Types of Farming in Michigan," Michigan State College, *Special Bulletin No. 206*, 1930, p. 14.

not so rapid, but they suffered losses of 21 and 23 per cent in the number of farms during the period.[19]

The assessed valuation of these counties as determined by the State Board of Equalization for 1929, was: Crawford, $3,234,000; Oscoda, $1,900,000; Ogemaw, $5,325,000; and Roscommon, $2,100,000. In round numbers, then, their total assessed valuation was only $12,559,000 and their average valuation approximately $3,139,750. The general property tax levied by the state government for all of Michigan in 1930 amounted to $29,500,000. Of this total only $42,906.27 was levied on this block of four counties. During the fiscal year beginning July 1, 1930, the state government's entire disbursement to counties from the fund for primary schools was $24,071,432.51. This fund is derived largely from taxes on public utilities, inheritances, franchises, and insurance companies. Of this primary school money, the state distributed $80,353.28 in the counties of Crawford, Oscoda, Ogemaw, and Roscommon.[20]

The thirteenth biennial report of Michigan's highway department shows the total state tax raised in counties for highway purposes from 1919 to 1930. This includes property taxation for state highway purposes, motor vehicle license fees, the gas tax pro-rated according to motor vehicle fees, and the expense borne by counties in trunk line construction and maintenance. The report also gives

[19] Michigan State College, Farm Management Department, *Mimeo. No. 49*, p. 1.

[20] Figures compiled from Auditor General of Michigan, *Annual Report*, 1931, Table No. 183.

the amount of money returned by the state to the counties for highway purposes during the same period. The principal item here was the refund from the motor vehicle fees and the gas tax. Finally, the report shows the highway expenditures of the state in the individual counties from 1919 to 1930. From these compilations the department obtains final estimates as to the amount raised in counties for state highway purposes and the amount refunded to counties and the amount expended by the state. It appears from these tabulations that the sum returned by the state or expended by the state exceeded the sum raised for state highway purposes in Crawford County from 1919 to 1930 by $676,615.69. For Ogemaw the excess of the amount expended over the amount raised was $673,775.23; for Oscoda, $700,651.36, and for Roscommon, $1,197,996.08. During the same period, in the metropolitan county of Wayne, $40,039,769.23 more was raised in taxation for state highway purposes than was refunded to this county or expended by the state within its borders.[21]

Sparse population, low valuation, poor soil are among the factors that emphasize the need for county consolidation in this area. These statistics do not demonstrate that these four particular counties should be consolidated one with another. Perhaps more logical consolidations could be arranged between them and other counties adjacent. But the need for consolidation stands in bold relief. State aid is being pumped into these counties, keeping them

[21] Michigan State Highway Commissioner, *Thirteenth Biennial Report*, 1931, Table No. lxii.

alive by artificial respiration. Were state aid of all types withdrawn, these and many other counties would have to fight for their lives.

Michigan does not stand alone in this predicament. Such regions exist in other states, as evidenced by various surveys, notably those of Mississippi and North Carolina. Counties in this situation are entitled to able state leadership in reorganizing their boundaries. So far, the states have satisfied themselves for the most part with a policy of liberal state aid. No great thought has been given to the ultimate solution. The inevitable outcome seems to be that the state will reach a point where so much aid is being spent upon a particular function that it is not a long jump to complete state maintenance and control. Another branch of local self-government will then fall to the state. If the states are going to buttress declining counties with financial grants, they might make such assistance contingent upon consolidation of some of the existing units of local government. A state might map out a comprehensive plan of county consolidation with the proviso that state aid for roads and other functions would go only to consolidated units. The state might weight the scales in favor of consolidation. The people would have a choice between maintaining meager counties at their own expense and entering into consolidated units with state support.

Functional Consolidation

Experts do not agree that general county consolidation is the best way out of the maladjustment of areas. Some

hold that different functions of county government, such as roads, schools, health, and welfare activities, need varying areas for their proper administration. Consolidation, they argue, may produce areas suitable to some functions but not to others. Functional consolidation starts from the premise that each function needs a different geographical basis if maximum efficiency is to be secured. This plan has certain practical advantages. To date, general county consolidations have been few, and these few instances have been based upon expediency rather than upon erection of logical areas for county functions. Moreover, counties have shown more readiness to coöperate in joint management and support of certain specific functions over a large area. County officials will rally against complete loss of identity in a merger with another county. No death struggle is invoked by the proposal that counties coöperate in maintaining a district health unit. Regional treatment of one function, even though the county, the courthouse, and the embattled hosts of officers remain, is permitted by functional consolidation. A number of such functional consolidations might convince the people of the obsolescence of county boundaries.

In the absence of an active movement toward the complete consolidation of counties, some progress is being made through functional consolidation or coöperation. State laws permitting counties to coöperate in functional undertakings are multiplying. District almshouses of one type or another are now authorized in many states. District hospitalization and district health units are examples

of the same type of functional combinations. In a few states district libraries are permitted. In others, counties may coöperate in road work.[22] For lack of general governmental consolidation, joint undertakings are a working substitute. This plan permits the treatment of certain functions on a regional basis. It lessens the inadequacy of many counties in coping with functions that require heavy capital outlays and professional administrators.

Optional state laws permitting joint undertakings by groups of counties are tacit admissions that counties are not appropriate areas for administering certain services. Improved management of specific functions has come from these optional laws. Virginia replaced a number of county poorhouses by a few homes for large districts containing more than one county. No one laments the passing of the county poorhouse in favor of larger institutions where better treatment can be given. The optional law of Virginia authorizes the sale of the old county homes. Counties coöperating in such a functional unit bear the cost of constructing the district home in proportion to their population. The cost of operation is allocated among the counties according to the number of inmates. In Michigan, the function of health administration may be consolidated. By law of 1927, two or more counties were permitted to combine in a district health unit. Sixteen counties, for example, in the northern part of the southern peninsula of Michigan have combined into four district health units. A

[22] Cf. W. L. Bradshaw, "The County Consolidation Movement," *The Southwestern Social Science Quarterly*, XII, 1932, p. 326.

fifth combination includes three counties. The Michigan constitution permits counties to join in the construction and maintenance of public and charitable hospitals, sanatoria, or other institutions for the treatment of persons afflicted with contagious or infectious diseases. This option, likewise, has been put into practice. Opportunities for coöperative undertakings are not always seized. In Mississippi, joint action by counties is authorized for certain functions including agricultural schools, health work, roads, and bridges. "Nevertheless, the amount of actual coöperation between counties in Mississippi is not impressive." [23] Missouri, like Virginia, permits adjoining counties to coöperate in maintaining a district almshouse. Applying the rule that an almshouse should not be operated for fewer than forty persons, William L. Bradshaw estimated in 1931 that only twenty of the 114 counties of Missouri could afford to maintain county homes. He urged that the counties use this option to coöperate in this activity.[24] As time goes on, more functional consolidations will probably be allowed by state law, and counties will make more use of them.

Functional coöperation has great possibilities. Once counties get the habit, there will be no end to the creation of special districts. Carried to an extreme, this means the multiplication of joint enterprises with concomitant welter of heterogeneous districts. If all the functional areas—

[23] Institute for Government Research of the Brookings Institution, *op. cit.*, p. 658.

[24] W. L. Bradshaw, "The Missouri County Court," 1931, p. 181.

health, roads, almshouses—are made geographically coterminous, then the way is paved for general governmental consolidation. If, as is more apt to happen, these districts are not uniform—and therein lies the essence of functional consolidation—a county will participate in many divergent districts. Although this might eliminate the pressing necessity for general consolidation, it might also make confusion worse confounded.

State Districts

A policy more drastic than either general or functional consolidation is the replacement of a block of pauper counties by one state district. Within this, no local governments would exist. Local services would be provided directly by the state. The report of the Institute of Public Administration in 1932 proposed for the Adirondack region the blocking out of a forest reserve "as a special district under the exclusive administration and control of the state" of New York.[25]

In Maine, townships comprising nearly one-half of the area of the state are unorganized. In these unorganized places the major functions are administered directly by the state. The counties perform few functions and serve primarily as judicial districts. The taxes which they require from unorganized townships for support of courts, sheriffs, and registers of deeds are collected by the state. The

[25] Institute of Public Administration, "The Reorganization of Local Government in the State of New York to Meet Modern Conditions," 1932, p. 15.

major services in unorganized townships are provided by the state government which assesses property, levies and collects taxes. Through highways, schools, and policing, for example, are administered by appropriate state departments. Philip H. Cornick tells us that, "For eleven and a quarter mills on an assessed valuation admittedly below full value, less possible rebates, the property-owners and residents in the unorganized townships receive the full benefits not only of state and county government, but also of every essential service which is administered in other areas by local units." [26]

Creation of state districts is a last resort. An unorganized district directly administered by the state may prove the way out for certain areas. The last decades have witnessed the return to state ownership of millions of acres of cut-over forest land and sub-marginal farm land. The only way to stop this process of reversion is to reduce expenses, and the only way to do this in certain sections may be to create districts without local self-government, to be directly administered by the state.

The need for a system of local government other than the standard county or county and township in areas of low population density has become apparent. In Michigan, the 1933 report on county and township government found that the per capita cost of county and township government on township residents in the cut-over county of Roscommon with 2,055 inhabitants was, in the fiscal year

[26] Philip H. Cornick, "People *v.* Empty Acres: A Problem in Rural Government," *National Municipal Review*, XXI, 1932, p. 480.

1931, no less than $46.73. In Luce, a cut-over county of the Upper Peninsula of the state with 6,528 residents, the figure for the same fiscal year was $33.75. In view of this severe burden, it was urged that, in the sparsely settled forest and cut-over regions: "Economies could be accomplished by restricting such areas from further settlement, by the removal of such inhabitants as desire to live elsewhere, and by the suspension of all but the most essential governmental services, these to be supplied directly by the appropriate state departments." [27] If certain regions cannot support local government without extensive state subsidies, it is far better to recognize the situation by setting aside such unorganized districts.

General consolidation of counties, functional consolidation, and creation of state districts without local governments offer opportunities for lowering the high cost of government in areas of scant population and low valuation. Actual consolidation of counties is a rare phenomenon in American politics. Where it has been accomplished it has not been based upon any preconceived plan to make county boundaries conform more closely to trade areas. Political expediency has been the guiding force of a few small counties in shuffling off their governmental fabric to consolidate with a more imposing urban neighbor. That county consolidation has proceeded with such measured steps is indicative of the powerful political and practical obstacles in its path. It takes more than a little agitation by clubs

[27] A. W. Bromage and T. H. Reed, *op. cit.*, Chap. VI; cf. Table No. 30.

and organizations to effect general consolidation. Public opinion must be well formulated, determined, and aggressive. In lieu of governmental consolidations, some states have embarked upon a series of functional consolidations. These are more easily established and place one or more county services upon a rational, regional footing. The creation of state districts without local governments may be necessary where counties contain nothing but "stumps, debts, and a courthouse." The unorganized townships of Maine illustrate such a solution, although the counties persist and perform a few judicial services. Reconstitution of areas in local rural government is fully as important as reorganization of internal structure.

CHAPTER IX

THE TOWNSHIP

THE TOWN or township, which is found for the most part in the Middle Atlantic and North Central States, is a political subdivision of the state of smaller geographical extent than the county. It is commonly classed as a quasi-corporation by the courts.[1] The township is very different from the New England town. Its powers are less extensive, and its area in the North Central States is more regular, since many civil townships follow the lines of the Congressional township six miles square. It was a product, in part, of the land survey policy of the national government rather than of indigenous growth. The township lacks the intense community life that has marked the New England town.

The powers and the importance of townships vary greatly among the states. In New York, Michigan, Illinois, and Wisconsin, the town or township has significance as the unit of rural representation upon the county board.

[1] The township of the Middle Atlantic and Mid-Western States is often called a town. This makes for confusion, since the word town is also applied in a few states to incorporated villages. In this chapter, the word town will be used interchangeably with township, according to the practice of the particular state under discussion, and not as a descriptive term for the incorporated village.

Townships generally serve as election districts in county, state, and national elections. They commonly assess and collect taxes for their own purposes and for the county and state as well. As the domain of the justice of the peace and of the constable, they are districts for the maintenance of the peace and for the adjudication of minor civil cases. They generally have their own highway systems supplementary to those of the state and county. Many still serve as districts for administration of health and welfare functions. Most townships follow the Jacksonian principle of electing their officers, such as clerk, treasurer, supervisor, highway commissioner, overseers of the poor, and members of the township boards. Names, powers, and duties of the officers are by no means uniform. Many township officers have ex officio duties not indicated by their titles. Township meetings are found in a majority of these states, following the precedent of the New England town. In others, this organ of democracy is not a feature of township government.

Town or township government exists generally in Indiana, Iowa, Kansas, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin. In six other states, township organization is scattered. Seventeen counties in southern Illinois have no township government. In Oklahoma, less than one-half of the counties have organized township governments; in Nebraska, less than one-third; and in Missouri, less than one-fourth. In North and South Dakota some townships serve merely as

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school districts.[2] In a few states the township exists by name, but does not possess political organization comparable to that of the typical Mid-Western township. In Arkansas, California, Montana and Nevada, townships exist primarily as judicial districts. North Carolina has townships that serve, in a sense, as units of assessment, but are otherwise unimportant. South Carolina has divisions which are known as townships in most counties. There the townships exist chiefly for assessment purposes and for minor judicial matters. By special legislation, various township offices have been created in individual counties. In the remaining states of the South and Far West, administrative districts exist, but they are nowhere comparable to township government.

No task is more precarious than the transplantation of political institutions. The Mid-Western township has turned out to be very different from the New England town. This is no time to quarrel with the decision of the Congress of the Confederation in selecting the New England principle of township settlement as that best suited to the Western lands. It is time to consider whether the township as it has developed in the Middle West is a success as a unit of rural government.

The Trend of Opinion

No local governmental unit has been more consistently under fire during the last decade than the township. A

[2] Cf. J. A. Fairlie and C. M. Kneier, "County Government and Administration," 1930, pp. 451-452.

political entity commonly six miles square has become Lilliputian in an era of motor cars. Most of the broadsides against township government are directed at this institution as it is known in the Middle Atlantic States and in the Middle West. The New England town seems to justify its existence. Such is the vitality of the town and the weakness of the county in New England that few would suggest that towns be disorganized and their functions transferred to counties. Internal organization of the New England town may undergo modification. Town meetings may be limited to representative councils of delegates, and town managers may multiply, but the town itself is in no danger of extinction. The same cannot be said for township government outside New England. In a number of Mid-Western States, many counties no longer have townships within their boundaries. In other states, so many functions have been transferred from township to county that the former is a hollow shell. Barring unforeseen developments, the destiny of the township in many states appears to be reduction to mere administrative districts if not complete abolition. The townships which Jefferson hailed as "pure and elementary republics" are now more often than not poor and rudimentary local units. The traveler may be unaware that he is crossing township boundaries, yet within each of these subdivisions exists a separate coterie of office-holders whose tenures are hard to justify.

It is not easy for a governor to tell his rural constituents that township governments should be disbanded. To

rural voters the township is the one remaining governmental institution which they can run as they please. They will admit that the county might do all that the township does more efficiently, and hasten to add that they prefer to run certain things themselves even at additional cost. Here, as in county government, there is strenuous opposition to either consolidation or abolition.

At the 1931 conference of governors at French Lick, Indiana, Governor Harry Woodring of Kansas made clear his attitude toward the township. "The township organization in Kansas and in most States," he said, "is an obsolete institution and its abolishment would save money without reducing public service. A reorganization of county and township lines need in no case be regarded as an attack on local self-government, but rather a reshaping thereof to the end that greater efficiency be attained." [3] Governor Wilber M. Brucker told the Michigan legislature in 1931 that the policy of maintaining counties, townships, and rural school districts was satisfactory in populous states and populous parts of states. "However, when the same system is applied to the more sparsely settled sections, there results a tremendous waste of expense in the maintenance of a multitude of unnecessary governmental agencies." He suggested that consolidation of local offices "would result in large economies." [4] In the same year, the American Country Life Association devoted its fourteenth annual conference to the subject of rural govern-

[3] *The United States Daily*, Supplement, June 8, 1931, p. 7.
[4] *The United States Daily*, Supplement, Feb. 16, 1931, p. 42.

ment. Frank O. Lowden, former governor of Illinois and honorary president of the Association, after speaking of the need of county consolidation, turned to the vexing question of the township. He called the township "a still smaller unit of government which has largely survived its needs." Cryptically he remarked, "No one but the town assessor knows what its boundaries are." [5]

More and more public officials are taking a stand for remodeling local units with elimination or modification of townships. Their views are actuated largely by the changing systems of transportation and communication. They are supported by technical advice which views the township as an inadequate area for support and administration of numerous functions. One method of analysis is to break the township into its component functions: as a unit of representation on the county board, as an area for selection of justices of the peace, as a district for administering highways, health, schools, poor relief, and other duties.

The Township as a Unit of Representation

In a few states the township still serves as a unit of representation upon the county board of supervisors. The chief examples of this practice are New York, Michigan, Illinois, and Wisconsin. Township representation is analogous to the principle of ward representation, an urban practice now on the decline. Ward representation in cities produced large and unwieldy councils and small

[5] Fourteenth American Country Life Conference, *Proceedings*, 1931, p. 7.

caliber members, limited in outlook to the four corners of their individual wards. The same arguments apply against electing representatives to county boards from townships. The result is large and unwieldy county boards and small caliber members limited in outlook to the four corners of their individual townships.

The township as a unit for the election of county supervisors is sometimes defended on the ground that it makes the county board more representative. Such representation might be essential if county boards were engaged in enacting fundamental political axioms into law. A miniature county legislature would then be justified. The Township Act of 1858 in Minnesota set up boards of supervisors representing the several towns. Thereafter, the people in Dakotah County very properly called the board the "Dakotah County Legislature." [6] After the lapse of only two years the system was repealed. If county legislatures were objectionable in the Eighteen-Fifties, how much more so are they in the Thirties of the present century, when their work is becoming more and more technical in nature. An aggregration of urban and rural supervisors is not the most suitable body for the consideration of the ever-accumulating technicalities of county government.

Retention of cumbersome county boards is counter to the prevailing tendencies of other local units. Municipal councils and school boards have decreased in size. There

[6] William Anderson and B. E. Lehman, "County Government in Minnesota," 1927, p. 24.

is no fundamental difference between the part which a county board should now play and the function of school boards and municipal councils. Is the large county board, elected by ward representation, actually more representative? A large board is forced to lean heavily upon committees, which may be less representative of the county as a whole. It becomes more and more a rubber stamp for committee action and less and less of a representative body. If the rural districts of a county as such must be represented upon the board of supervisors, large districts would be better than townships.

Justices of the Peace

The policy of using townships as districts for election of justices of the peace is of long standing. Political popularity, not legal training, is too often the chief qualification for office. Administration of minor civil and criminal cases by untrained lay justices has been the outcome. Popular notions of judicial work are gathered from the acts of these justices. It goes without saying that decisions of cases, however minor, are of great import to the parties concerned. That branch of judicial administration which touches the lives of many so closely should, as far as possible, be above reproach. Many justices of the peace serve rural areas competently, but this does not eclipse the fact that "Judgment for the Plaintiff" is a parody frequently applied to the initials J. P.

Justices of the peace in the Mid-Western township deal with minor matters. Their jurisdiction is generally lim-

ited to civil cases involving less than three hundred dollars and to minor criminal cases. It may have been necessary in the past to have three or four justices to the township, bringing elementary justice to everyone's door. But the same economic forces which have made county boundaries obsolete have rendered the justice of the peace system archaic. In Michigan, for example, the constitution requires that every township shall elect not to exceed four justices of the peace. Since there are no less than 1,268 organized townships in the state, this means an army of justices to stagger the imagination. It would take a very lawless citizenry to fill the dockets of all these justices. As a matter of fact, the vast majority of them are inactive, only a small minority having a real calendar of civil and criminal cases. In Kentucky, J. W. Manning found that only 46.7 per cent of 490 justices reporting were "actively engaged in the administration of justice in their counties."[7] Grouping of townships or districts to create a larger area and fewer justices of the peace would not remedy all the defects. Elimination of the fee system and a method of selection that will procure justices of better training is also essential.

Recently, attention has been directed to the creation of trial justices for the county at large in Virginia. This state has, until the last few years, followed the common practice of electing justices from a small territorial area—not the township—but the magisterial district. The Gen-

[7] J. W. Manning, "Kentucky Justices of the Peace," *American Political Science Review*, XXVII, 1933, p. 92.

eral Assembly, acting under authority granted by the constitution, provided for the election of three or more justices in each magisterial district in the counties. It called for approximately 1,300 justices, and able men would not run for the offices. Appeals from the decisions of justices were frequent, and some districts selected no justices at all. To remedy the resultant conditions, Virginia has, particularly in the last decade, passed a number of acts dealing with individual counties and groups of counties, permitting an appointed trial justice with jurisdiction over the whole county to supplant the justices of the peace. "The counties that have tried this plan of justice," according to the Virginia Commission on County Government, "have found it a marked improvement over the old magistrate's court. Circuit judges, commonwealth's attorneys, trial justices, and disinterested citizens testify to the more equitable and expeditious handling of cases under this plan." [8] As compared with the record of the justices of the peace, appeals from the trial justice courts have proved infrequent. The Virginia Commission favored the abolition of the justices of the peace and the mandatory creation of a single trial justice appointed by the circuit judge in all counties.

In the nineteenth century, the justice of the peace elected in a small political unit filled the bill. Even to-day the lay justice in a remote and tiny bailiwick may satisfy the rural demand for common sense justice. But, by and in the large, the inexorable march of events has left the justice of the peace behind. Virginia has demonstrated that

[8] Virginia Commission on County Government, *op. cit.*, p. 48.

the county can be used as the district for small civil cases and minor criminal offenses. That experience indicates the needlessness of clinging to townships or magisterial districts as being essential for election of justices of the peace.

Highways

The township in the Middle Atlantic and North Central States has been used as an area for construction and maintenance of local highways. This is contrary to the prevailing use in the South and Far West of the county for this service. Supplementary use of the township unit for road building and maintenance has been much debated. In general, technical opinion has crystallized in favor of the county road unit, while local politicians cling to control of township highways. Creation of state units for superintending rural highways in North Carolina and Virginia has recently put this use of the township even farther in the background. Although township highways may long persist in the North Central States, the real issue of the future will perhaps lie between the county road unit and the state highway unit.

Dissatisfaction with township highway administration is due to the fact that it is almost impossible for townships with their limited resources to care for modern traffic. Maximum efficiency in utilizing road machinery is not possible when the township is the agency. Each township has to buy its own equipment, no matter how few the miles of highway within its limits. Garrett D. O'Connor has made a comprehensive study of the township highway

system and its operation. He recommended that "the administration of the township highways be taken over by the county." [9]

The township highway commissioner rarely enters upon his brief term of office equipped with technical knowledge about road building. In 1928, L. J. Rothgery told the Fourteenth Annual Conference on Highway Engineering at Ann Arbor, Michigan, that, "All too frequently a candidate is elected to the office of highway commissioner because during the last season's régime he was unable to get attention to the roads in his immediate vicinity, and he took this means to insure work on his roads for the current year." He criticized not only the constant turnover of highway commissioners, but also the results which they produced in road building. "Miles of gravel, hauled long distances by teams and handled under costly methods, are placed on roads upon which no preliminary work is done. The grades are narrow, there is no attempt at proper drainage, gravel is dumped 'a load in a place,' and the surface left with such a crown as to make travel unsafe." [10]

Michigan took cognizance of this problem in the legislative session of 1931. The consolidation of township and county road systems was made mandatory. The legislature provided for incorporation of 20 per cent of the township highway system into the county road unit during each

[9] G. D. O'Connor, "The Township Highway Problem in the United States," University of Michigan, *Publications*, XXXI, No. 72, 1930, p. 234.

[10] L. J. Rothgery, "The Township Road Problem," *op. cit.*, XXX, No. 9, 1928, pp. 218, 223.

of the succeeding five years. The pill was coated with a grant of additional state aid to counties. This is only one instance of the constant process of attrition which is wearing away the functions of township government.

A coördinated system of highways is more likely to result when there is a county road system than when responsibility is divided by township and county. Expert management of men, materials, and machinery is possible. Now that some of the states have moved toward the transfer of the county roads into a state system, the arguments against the township as a road unit have been strengthened. At the present juncture the states are following widely divergent policies as to highways. In North Carolina and Virginia, the state unit has come into being. In other Southern States, both the state highway system and the county road unit are in existence. In the Middle Atlantic and North Central States, the state, county, and township systems are the rule. Here again, the issue of the future lies beyond the township. The real struggle will be between a dual system of state and county control or a consolidated state agency.

Health Administration

Governmental institutions have been hard pressed to keep step with the rapid strides in medical thought and practice. Care of public health long ago overstepped the boundaries of the township. Yet the township still remains in many states as a barrier to the county health unit. In the New England States, the town is deeply rooted as

an administrative unit for health functions. The Mid-Western township, however, has already begun to give way. Ohio wiped out township and village health units in 1919. Previous thereto, Ohio had 2,581 health districts. Of this number almost 2,500 were village and township units. These were abolished in 1919 in favor of the county unit. Even the cities might, if they chose to, incorporate as part of the new unit.[11] Between the extremes of the New England and the Ohio practices lies a state like Michigan, which has made county health units optional. By statute of 1927 not only may county health units be established, but district units as well, containing two or more counties. Cities may or may not join in such health units, as they see fit. In the face of the county or district health unit, the township health board pales by comparison. The township as a health unit served its purpose when public health was limited to the use of quarantine to prevent the spread of communicable diseases, and the control of environment by superficial inspections. Little was required beyond a hammer, a box of tacks, and red cards. No great amount of time was taken. Special training for health officers was all but unknown. Card placement, fumigation, environmental inspections—these may not seem adequate now—but they were the order of the day under the old township health system.

The county health unit has met with increasing favor. During the years from 1920 to 1927, inclusive, the average

[11] Cf. James Wallace, "The State Health Departments of Massachusetts, Michigan and Ohio," Commonwealth Fund, 1930, pp. 18-21.

annual net gain in county health units was 38.[12] The gain during 1928 and 1929 was rapid, for the nation had 505 county health units on January 1, 1930. The United States Public Health Service estimates that there are about 2,500 counties or districts comparable to counties in which a full time health unit would be advantageous. This means that on January 1, 1930, the battle had been waged successfully in approximately 20 per cent of the potential rural health units in the United States. In his address before the 1932 conference of the American Public Health Association, Herbert Hoover spoke of the successful results of the establishment of health units in one hundred counties of the Mississippi flood area. "By every means within my reach," he said, "I have ever since promoted the idea of establishing these units in every one of our 3,000 counties in the United States. . . ." He regarded the county health unit as "the most effective means of strengthening the public health service in harmony with the spirit of our American institutions." [13]

Here again the township is ruled out as a unit for the operation of a major function. Health service is expensive and demands specialized training. The township cannot afford full-time, specially trained workers. It is so small that it results in a myriad of minor functionaries doing ineffective work. "The chaos of such a scheme of organization," as M. E. Barnes has written, "is evidenced

[12] L. L. Lumsden, "Extent of Rural Health Service in the United States, 1924-1928." Reprint No. 1220 from *U. S. Public Health Reports*, April 13, 1928, pp. 861-874.

[13] *The New York Times*, Oct. 25, 1932.

in one state which has 1,610 township and 813 town boards of health—a total of 2,423 local boards of health, each of which employs a part-time health officer." [14]

Schools

The traditional school unit in the Middle West has been the diminutive school district with its one-room school. There is a cluster of these school districts within each township. In New England, the town school district has developed successfully. The question then arises, should the township be retained in order that it may serve as the consolidated school district of the future in the North Central States? Indiana is an example of the use of the township as an area for school purposes. There, "centralization within the township has resulted in the abolition of all school districts, although in remoter regions the one-room school still lingers." [15] Although the township, in some instances, is used as the consolidated school district, there is no drive to emulate these examples. Many educators do not advise development of the township as a school district. The same objections which are raised against it as the medium for highway, health, and judicial work apply against it as a school district. It does not generally conform to natural community areas. Modern transportation has made the county or the natural community unit feasible. In addition, the Mid-Western prac-

[14] M. E. Barnes, "The County, the Logical Public Health Unit," *National Municipal Review*, XXI, 1932, p. 500.

[15] Frank G. Bates, "The Indiana Township—An Anachronism," *National Municipal Review*, XXI, 1932, p. 503.

tice of incorporating villages and small cities has produced village schools. These incorporations disrupt the unity of the township for school administration as much as for other purposes. The township of the Middle West is not as practical a unit of school administration as the New England town.

Already townships which are organized only for school purposes exist in some of the counties of North and South Dakota. Although the township be accepted as a valid unit for school administration, political organization is not a necessary concomitant. Whether it be in the county, township, city, or rural school district, education is usually handled by a group distinct from the political authorities as such. The functions of the township as a school unit and as a political unit may be separated readily. The township may be obliterated entirely as a political body and still be retained as a school district. In view of the developing county and natural community school districts, the extensive use of the township as a school district seems, however, unlikely.

Similar to the trend in judicial, health, and highway work, is the modern advocacy of the county unit in school work. This does not mean that there is to be one central school for a county and no other. A single county board of education is substituted for a number of local boards. It would administer the rural schools, using as its executive an appointed superintendent analogous to the superintendent of city schools. Such a county school unit, or a consolidated school district based upon community areas,

offers a more logical region for schools than the township.

There has been an advance toward the county unit and the consolidated school unit in school administration all along the line. The county unit has made the greatest progress in the Southern States. In the Middle West consolidated school units comprising a smaller geographical area than the county have been numerous. Yet schools in small, consolidated districts persist in large numbers. Eleven states contained over 65,000 rural school districts in 1930. Whether the educators use the county unit or a natural community unit for school administration, the pertinent point is that the township need not be retained as the basic unit for this purpose.

The Township's Future

Does the township justify its own existence as a functional unit for the maintenance of certain governmental services? Political scientists maintain that the use of the township as a unit of representation on the county board of supervisors is undesirable. Students of judicial administration argue that the venerable township justice of the peace can be replaced by county trial justices. The township highway system gives ground grudgingly but gradually to the county road unit. In the field of public health, experts favor the county or district plan. The township is utilized in some states as a school district. But educators prefer the county or actual community unit.

The other functions which townships now perform could as well be handled elsewhere. Institutional care of the

poor is already provided by the county almshouse and the district home. As far as outdoor poor relief is concerned, it can be maintained as well, if not better, by the county. Assessment of property does not require the township. Many believe that this should be done only by counties and larger cities. The same holds true as to collection of taxes. The townships exert no superiority on that score. Clerical functions can be managed by the county clerk, and so it goes.

If the township is not to be abolished in certain states, there are good reasons for township consolidation to eliminate the governmental overhead of thinly settled townships. A review of the rural population living in the unincorporated areas of townships in several states shows a number of townships with a low density of population. On the basis of 1930 census figures, it has been computed that 25 per cent of the townships of Michigan have a rural population living in unincorporated territory of less than four hundred. In Wisconsin, 15 per cent of the townships fall in this category; in Pennsylvania, 10 per cent; in New York, almost 5 per cent; in Indiana, 4 per cent, and in Ohio, 3 per cent.[16]

An analysis of the per capita cost of certain activities in the townships of Antrim County, Michigan, is a further demonstration of the importance of township consolidation. This study determined the per capita cost of elections, the township supervisor, the board of review, the

[16] A. W. Bromage and T. H. Reed, *op. cit.*, Appendix B, Table No. 47.

clerk, the township board, treasurer, health work, and the township hall in townships of over and townships of less than 1,000 population. For the fiscal year 1931, the per capita cost of these activities in townships of more than 1,000 residents was $1.31; in the townships of less than 1,000 inhabitants the figure was $2.42. The differential in the fiscal year 1930 was even greater. The per capita cost in the former was $1.24; in the latter, $2.81. This indicates the desirability of township consolidation to bring as many townships as possible into the higher ranges of population. As in the case of counties, township costs do not decrease proportionately when population falls below a certain minimum.[17]

The principal reasons for township elimination as well as for consolidation are the possible saving to the taxpayer and greater efficiency in public administration. In the average state it is practically impossible to estimate accurately the economies which would be made by disorganizing townships and transferring their functions to the county. However, in Illinois, where some counties have township organization and others do not, comparisons between the county unit and the county-township unit are available. There, a study has been made of the cost of government in eleven counties without townships and in seven counties with townships, based upon the taxes levied in 1931 for general governmental purposes, other than those for schools and highways. These two groups of counties, as H. S. Hicks, chief clerk of the Illinois Tax Commission,

[17] *Ibid.*, Chap. IX, Table No. 37.

has demonstrated, were comparable in area and population. In the eleven counties without townships, the total population was 172,346, and the area, 3,552 square miles. The seven counties with township organization had a population of 167,686, and an area of 3,731 square miles. There the comparison ceases and the contrast begins. In the eleven counties without townships, "the total tax extensions . . . amount to $317,223.47, a per capita cost of $1.84, and a cost per square mile of $89.30; the number of tax-levying bodies in this area is 11, and the number of elective officials 110." In the seven counties under township organization, "the total tax extensions . . . amount to $653,186.40, a per capita cost of $3.83, and a cost per square mile of $175.07; the number of tax-levying bodies in this area is 114, and the number of elective officials 370." On the basis of this difference between the cost of local government with and the cost of local government without the township, Mr. Hicks estimated that the elimination of 1,400 townships with their 4,000 elective officials in eighty-five counties would mean an annual saving of $5,000,000. The major share of this would be tax relief for farmers.[18]

While much expert opinion is averse to the township as a unit for operation of certain functions, and while the experience of Illinois is practical demonstration of possible savings through their elimination, there is another side of the case. The most common objection to extinction of the

[18] H. S. Hicks, "Systems of Local Government of Counties and Townships," *The United States Daily*, June 20, 1932.

township and absorption of its functions by the county is the loss of civic interest in local self-government. Instead of running their local affairs through the township meeting or neighborly township board, the people would entrust matters to a representative but remote county board. Even though the larger unit administered functions more efficiently, some argue that this would be small compensation for decline in local interest. This assumes that civic pride in township affairs cannot be transferred to the county. Interest in township government has already waned in many states, except on the part of special interests that are threatened by the imminency of abolition. Yet, there is no gain without loss. The local pride which still centers in the township is the price of more effective management in the county unit. There will be fewer offices for rural people. They will have less chance to serve as public officials in minor positions. The county unit will place the rural voters in much the same relationship to their government as urban voters now bear to the municipalities. The quondam township potentate will become a mere member of the county electorate. His influence in government will be less direct. This, too, is part of the price of township annihilation.

Political institutions, however archaic, are inextricably interwoven into the lives of many people; they look upon the township as one of their few remaining outposts of local self-government. The township has become a defense mechanism against the constant encroachment of

urban and state power. In the past, the township has been widely touted as a training school for democracy. A township office is still a rung on the ladder to state legislatures. This country has had admirable examples of men who have passed from the humblest political office to the mightiest. But the rural taxpayer pays a price for this training school of democracy, and the state legislator who has been drilled in this school often has his mind on local and particular interests rather than on those of the state at large. To advocate the abolition of the civil township is not an act of hostility to rural areas, nor a confession of waning faith in democracy. The suggestion that governmental functions be transferred to counties is a reapplication of the tenets of Thomas Jefferson in the twentieth century. Pure and elementary republics must compose the state, and make of the whole a true democracy now as much as in Jefferson's time. To argue for a strong system of county government is a reaffirmation of these principles on a modern scale.

The Rural Municipality

A very different solution of the conflict between county, township, and village is the rural municipality. Theodore B. Manny believes that the counties should administer only "state-determined policies and that all powers of local self-government should reside entirely in various classes of incorporated places." Several classes of incorporated places would meet the needs of all urban communities with interests predominantly non-agricultural. Cities with more

than 250,000 people might be separate administrative counties under this plan. Smaller urban places would be retained with open-country and village areas in the administrative counties. "Then there would be another class of incorporated places, including the typical farmers' trade centers and smaller hamlets, together with such contiguous open-country areas as desired to secure the advantages of municipal incorporation. . . . Two or more trade towns and the farm lands lying between them and around them might join forces as a single municipality if they desired." [19] Such units as these would be known as rural municipalities.

Rural municipalities would be in area very different from existing township units, not thirty-six square miles of territory, but groups of people with common interests in regions varying in area. In the smaller rural municipalities, primary assemblies similar to the New England town meetings would be convened. Larger rural municipalities would be governed by either a limited assembly of district delegates or by a small council elected at large. Executive direction between assembly meetings would be supplied by a small board of directors with the chairman acting as chief executive. In large rural municipalities, the council elected at large would act also as the chief administrative authority or, alternatively, hire a manager "whose duties would be a small-scale replica of those of a city manager, except that in the present instance he would

[19] T. B. Manny, "Rural Areas for Rural Government," *National Municipal Review*, XXI, 1932, pp. 481-483.

do more work himself instead of directing it to be done by a corps of appointed assistants." [20]

Further, Mr. Manny suggests that services in the rural municipality be supported by a system of zoned taxation. Under such a plan, Zone 1 would include the entire area, and "its tax is the one levied for general municipal purposes by the annual municipal meeting or by a delegated authority." Zone 2 would include all but farm lands proper. "This zone may require some added municipal improvements and services whose benefits are not available to the farm property of the rural municipality—hence the latter is not expected to contribute to the support of these improvements and services." For large rural municipalities, additional zones would be created to support services peculiar to the more densely settled portions. He urges that such a system of zoned taxation "should make town-country consolidation easier of achievement." [21]

Desirable as such a rural municipality might be, there is accumulating evidence that the trend is toward the transfer of township functions to existing county units, rather than the creation of a new unit of rural government with the county as a mere administrative district to administer state-

[20] T. B. Manny, "Rural Municipalities," The Century Co., 1930, p. 224.

[21] *Ibid.*, pp. 230-233. North Carolina has a Rural Community Incorporation Law under which "rural areas (including hamlets, villages, or towns whose population is under 5,000) ordinarily composed of one or more school districts may incorporate as rural communities. . . . The chief governing body is a primary assembly of all qualified voters gathered together in an annual meeting. This body enacts legislation within the extent of its powers, makes the tax levy for municipal purposes and elects the prescribed officials." *Ibid.*, pp. 195-196.

determined policies. One thing which has delayed transfer of township duties to counties in many states has been the archaic structure of the latter. Each state must work out for itself either by county home rule, or by optional plans, or by the imposition of new structure upon all counties, a reorganized governmental structure for the county. Inasmuch as experts in administrative lines are seizing upon the county as the best unit for the performance of existing township functions, the reform of county government becomes of pressing importance.

Effect upon Village Government

Elimination of township government would strengthen not only the county but the village as well. These two political units have been the township's two mill-stones. The county has long been a menace to township government. Its area is more suited to-day to the maintenance of many township functions than the township's own. At the same time, the communities within townships have been prone to incorporate themselves as villages to gain additional public improvements and services not supplied by the townships. While the state legislatures have made their incorporation legally possible, the movement for incorporation has sprung from these communities themselves. Villages, like cities, are voluntary corporations, distinct from subdivisions such as counties created by the state primarily for its own purposes. The inhabitants have felt the need of a local government which would provide them with more services than the county or the township. The

chief functions of the villages have been the construction and maintenance of certain public works—streets, sidewalks, lighting systems, water supply and sewers—and the maintenance of fire and police protection.

The term "village" is a misleading one, applied to a multitude of communities from the struggling, incorporated crossroads settlement of less than five hundred people to a suburban community of wealthy commuters possessing a strategic location on the periphery of metropolitan life. But for present purposes, the village may be defined as an incorporated community of less than 2,500 population. The number and the population of such villages have increased enormously during the last forty years. In the same period the populations of unincorporated rural areas have made no parallel advance. In 1890, 7.6 per cent of the people of the United States lived in incorporated places of less than 2,500 population. This percentage rose to 8.9 by 1910, but dropped to 7.5 by 1930. Although the percentage of population living in rural villages in 1930 was approximately the same as in 1890, the number of these villages had risen from 6,490 in 1890 to 13,443 in 1930; and their population had increased from 4,757,974 to 9,183,035 in the same span of years. During the period from 1890 to 1930, our population in unincorporated rural territory climbed only from 35,891,381 to 44,637,187. The inhabitants of unincorporated rural territory dwindled from 57 per cent to 36.4 per cent of our total population in the four decades. The rate of growth of population in incorporated places in rural territory has

exceeded the rate of growth in unincorporated rural territory.

In the struggle for governmental existence, the villages seem to have this on their side. Their rate of growth has been superior to that of unincorporated rural territory. They are actual communities, voluntarily incorporated to provide certain functional needs. Some have demonstrated an ability to keep up with urban developments by making use of the manager plan. The growth in number of villages is partially explained by the fact that they had no other alternative, no hope of obtaining from counties or townships the services which they wanted. Township and village are competing units of government. The increasing number of villages is a practical protest against the insufficiency of the township. Village incorporation follows the lines of actual communities, disregarded by the ancient boundaries of the township.

Methods of Abolition

If the township is to be eliminated, how is this to be accomplished? Wherever legally possible, the transfer of functions from township to county is a gradual means to this end. So, the active work of the township can be reduced by easy stages until its abolition would not disrupt political life. Thus it would die a natural death. Another alternative is the disorganization of townships with provision for their attachment to other townships. Or, townships may become unorganized territories governed by the county. Minnesota, by act of 1931, permits towns

to request dissolution by a vote of the electors at annual or special meetings. The county board may then dissolve the town and by resolution attach it to an organized town or govern it as an unorganized territory of the county. If the disorganized town is to be attached to an organized one, a five-eighths majority of the voting electors of the organized town is required. Acting under this law, the residents of the township of Spruce Valley in Roseau County voted to dissolve their government at the annual town meeting in March, 1932.[22]

Another gradual process of abolishing townships is by county option. For example, the constitutions of Illinois, Missouri, Nebraska, and Oklahoma permit counties local option in abolishing township organization. In Illinois, the question of continuing township organization within a county may be submitted to the voters at a general election in accordance with the procedure established by law. Then, "if a majority of all the votes cast upon that question shall be against township organization, . . . such organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county."[23] Such an option results in a dual system of local government, some of the counties operating with and some without township organization. While this necessitates two sets of laws, one for counties with, and one for

[22] Cf. Ambrose Fuller, "Dissolution of Townships in Minnesota," *National Municipal Review*, XXI, 1932, pp. 402-403.

[23] Illinois, *Constitution*, Art. X, Sec. 5.

counties without, township organization, it is a handy method of disorganization. This is preferable to requiring every county in a state to have townships, whether the people want them or not.

In 1933, it was recommended that Michigan permit counties the option of discontinuing township organization. Counties, it was urged, should be permitted to adopt alternative forms of government established by the state legislature or home rule charters. Then, under the proposed constitutional amendment, any general law or home rule charter might provide for the continuance or discontinuance of organized townships within the county, and the transfer of any or all of the powers exercised by townships to officers of the county or state. Township government varies in vitality from state to state and even from county to county. For this reason, constitutional or statutory options permitting counties to abolish or to transfer some township functions to appropriate county officers seem desirable.

In spite of the incongruity of the township in this age, its actual elimination is not readily accomplished. Yet the persistence of township government precludes employment of specialists in this generation of specialists. Because of its restricted extent, it no longer fits the radius of its inhabitants' lives. Nor can the arbitrarily outlined township conform to natural communities that have been springing up within it.

CHAPTER X

RECONSTRUCTION OF LOCAL GOVERNMENT

A STANDARD form of local organization has never been agreed upon, nor is there any single accepted remedy for the complexity of local governing bodies in this country. If, as some urge, only one local unit—say the city or the county—is to have jurisdiction over a single geographical area, townships, together with many villages and special districts, must be wiped off the map. In the matter of internal structure, the county, as America's chief rural institution, falls far short when measured by modern standards. The governing body of the county should resemble a school board, having some three to seven members, elected at large by a non-partisan ballot, or by proportional representation. A chief executive officer should supplant the medley of independently elected county officers and boards, and he needs to have working under him a group of subordinates as heads of unifunctional county departments. Beyond the vexing questions of reducing the number of governing units, and of remodeling the county's internal structure, lies the necessity of proper administration. Poor administrative technique in rural regions accounts for a multitude of

existing sins, both of omission and of commission. It is a long road from the spoils system to the merit system in selection, retention, and promotion of county employees. Executive budgets, adequate accounting and reporting methods, centralized purchasing—these and other devices are among the recognized practices of public administration to-day which cannot be found in most counties. Reduction in the number of local units and reform of internal structure are hollow victories, without corresponding improvement in administrative methods.

The Abundance of Local Units

There has been an era of over-production in the political as well as in the business world. Such an abundant and varied stock of local governmental units exists that the supply exceeds the demand. Reduction of these units to conform to the needs of the people and their ability to pay taxes has become a crying need. The market is glutted with a surfeit of local governments. Counties, townships, villages, and school districts cannot be burned or plowed under or dumped in foreign countries. They consume taxes year by year without surcease. Unless marginal governments are disorganized or consolidated with other units, the only alternative is to continue to pay the tribute demanded by them.

County, city, village, township, school district, and special district units are legion. There are more than 3,000 counties in the United States. The number of incorporated cities and villages exceeds 16,500. The 1930 census

tabulated 3,165 incorporated places of over 2,500 population, and 13,433 incorporated communities of less than 2,500 population.[1] These figures do not include the thousands upon thousands of townships, school districts, and special districts. These are numbered not by thousands, but by tens of thousands. As Charles E. Merriam has said: "There are now in the United States more than 200,000 independent governing and taxing bodies. No one seems to know within a good many thousand just how many there are, but everyone knows there are too many, and that they are very expensive." [2] Taxing and spending agencies all, these local units touch the pocket-book of every member of the body politic.

The abundance of governments is not limited to one part of the country. In many states, county, township, village, school district, and special district form layer upon layer of government. Franklin D. Roosevelt said in 1931: "No citizen of New York can live under less than four governments, Federal, State, county and city. If he lives in a town outside of a village, he is under five layers of government, Federal, State, county, town and school. If he lives in an incorporated village, another layer is added. If he lives in a town outside of the village, he may be in fire, water, lighting, sewer and sidewalk districts—in which case there are ten layers of government." [3]

[1] Bureau of the Census, *Population Bulletin*, 1st Series, 1930, p. 78.

[2] C. E. Merriam, "A Different Prescription," *State Government*, June, 1932, p. 1.

[3] This statement was made in an address to the Institute of Public Affairs at the University of Virginia.

An estimate of the number of local officials in Wisconsin was made in 1932. It revealed 2,924 officials in the 71 counties of the state. There were 145 cities with 1,548 officials. The 360 villages accounted for an additional 3,984 public servants. Some 1,289 towns had 11,729 officials. School officers totaled 25,442 in 7,790 districts. The last straw for the taxpayer's back was 324 drainage officials in 108 districts. The grand total was 45,951 officers and 9,763 local units.[4]

New England and the South do not have as many superimposed layers of government. In New England the burden is relieved by the use of the county more as a judicial district than one of general administration. In the South and the Far West the township is either nonexistent or existent as an administrative unit of small consequence. The county rather than the township is the primary unit of local rural government. Virginia comes closest to the ideal by separating counties and first-class cities. In this manner the taxpayers are subject to either the county or city, but not to both.

[4] League of Wisconsin Municipalities, "Local Officials in Wisconsin," March, 1932, p. 5. Some consolation from the company of others in distress may be obtained from England, whence so many of our local institutions were inherited. England with her small area has some 62 counties, 83 county boroughs, 255 non-county boroughs, 785 urban districts, 646 rural districts, 7,166 parishes governed by councils, and 5,646 parishes governed by parish meetings. Cf. W. A. Robson, "The Development of Local Government," 1931, p. 20. The figures cited in this book are for 1927.

Objections to Existing Units

These overlapping units of rural government frequently fall far short of the size, valuation, and population necessary to provide adequate services. C. J. Galpin held that a community of one thousand rural families is necessary to provide a property basis for modern community enterprise. Only in such a combined population is there an adequate basis for support of modern schools, parks, libraries, fire departments and other services. "A small community," in the language of Dr. Galpin, "pinches its children, as a tight shoe pinches the foot. A small community to-day is decidedly grotesque, too, like a tiny hat on a big man." [5]

Many of our townships and villages have a population of less than one thousand people rather than one thousand families. In the face of improved methods of transportation and communication these diminutive units persist. Space has been overcome. The automobile, the road, and the telephone have made county government nearer to the people than was the township in the nineteenth century. The township and county units did at that time have a rough relation to the physical capacities of man and beast. The county was commensurate with the distance a man could travel by horse and buggy between morning and evening chores on the farm. These local units are

[5] This statement was made in an address before the American Country Life Association, and quoted in the *National Municipal Review*, XX, 1931, p. 3.

now out of keeping with the acquired mobility of man. They are static in a dynamic age. "Ignoring all of the developments which have tended to eliminate time and distance," as Harley L. Lutz has said, "we have continued to multiply small local agencies, piling them upon or lapping them over these original units as the population increased and the true scope of many problems expanded, until to-day we have a conglomeration of spending bodies, with power to levy taxes, to borrow money, to devise little plans and projects." [6]

These miniature political entities defy the common bonds of economic dependency which have arisen between the peoples of regions. Modern American Gullivers live and travel among Lilliputian governments. Areas for banking and trading outrun the boundaries of minor political authorities. There is a continuous flow of goods and services between communities whose people hold allegiance to different units of local government. Until political units conform more closely to social and economic regions, they will remain artificial. The need is for larger county units. Township governments could be eliminated without hardship except to the office-holders. Many small village governments could be abandoned. The extension of special districts should be checked. If it is possible their number should be reduced. By such a process, the number of governmental units might be cut and the sur-

[6] H. L. Lutz, "Some Factors and Conditions Which Contribute to the High Cost of Local Government," Fourteenth American Country Life Conference, *Proceedings*, 1931, pp. 63-64.

viving units made adequate in size, valuation, and population.

In accepting the Democratic nomination for President of the United States, Franklin D. Roosevelt spoke in favor of governmental consolidation as a means to economy. "For three long years," he told the Democratic Convention, "I have been going up and down this country preaching that government—Federal and State and local—costs too much. I shall not stop that preaching. As an immediate program of action, we must abolish useless offices. We must eliminate actual prefunctions of government—functions, in fact, that are not definitely essential to the continuance of government. We must merge, we must consolidate subdivisions of government, and, like the private citizens, give up luxuries which we cannot longer afford." [7] Thus was the troublesome question of the myriad of governmental subdivisions injected into the campaign of 1932.

The economic depression which began in 1929, and brought the American people back from a land of two-car garages, has had repercussions in local government as in all else. The revolt of the taxpayer in the prosaic but serious form of tax delinquency is mute testimony against the high cost of government. In many regions the people are faced with the crucial choice between widespread curtailment of essential governmental services and surgical operations upon the number and size of rural governments. To reduce all salaries and all appropriations by

[7] *The New York Times*, July 3, 1932.

an arbitrary one-third or one-fourth is the easiest way out. It is a temporary and not a permanent solution.

Here and there a voice is raised in protest against the multiplicity of local governments. Letters to newspapers often indicate the way public opinion is turning, and here is one to *The New York Times* from a resident of Westchester County, New York: "Attention has been called time and again to the enormous number of local governing bodies in New York State. . . . Westchester County has a county board of supervisors, four city administrations, seventeen towns, twenty-four villages and 173 school districts, a total of 219 local governments which have found no end of ways and means to spend the taxpayers' money." [8]

The New Jersey Commission to investigate County and Municipal Taxation and Expenditures held, as its point of departure, that there should be but one local governmental unit for one geographical area. This Commission advocated segregation of city and county as a possible end to the abundance of local authorities in New Jersey. This suggestion called for a single government over any area, a city government for the urban regions and a single, consolidated, special county government for the rural areas. Disorganization of rural townships was the corollary of the latter provision. "The county, as a district, would have its boundaries as at present, but so far as the independent municipalities were concerned, it would be only a shell.

[8] Adrian Seligman, "Westchester's Problem," *The New York Times*, July 15, 1932.

It would collect no taxes on city property and perform no services in the cities. . . . In the other direction, the special rural government would take over the administrative responsibilities of the rural townships. . . . In every part of the state there would be one and only one form of local government, which would be either a city or a county. The duplication of county and municipal government would disappear, and the responsibility for all local tax levies in cities would be laid on the city authorities, while the responsibility for all local taxes in rural areas would be laid on the reconstituted county authorities." [9]

Virginia has approached this standard. There, city-county separation is a general state policy. The first-class cities of Virginia are politically and financially independent of the counties in which they are located. Such municipal autonomy is relatively unique in the annals of American government. It is analogous in many respects to the English principle of the county borough. That the New Jersey proposal or the Virginia system will be widely copied in the United States seems improbable. Many doubt the practicality of removing the cities from county jurisdiction. The removal of the urban tax base from the county rolls must necessarily result in a curtailment of county services which is not all to the good. Abolition of townships, some special districts, and many small villages would bring some relief. Consolidation of counties is another possibility. It is to the interest of the taxpayer to clear away much of

[9] New Jersey Commission to Investigate County and Municipal Taxation and Expenditures, *op. cit.*, p. 218.

the governmental underbrush. Tens of thousands of local units in the United States spell hundreds of thousands of local officials for the citizens to support. Practical obstacles stand in the way of all plans for simplification or proper articulation of local units.

The power of the past is everywhere evident in the internal structure of counties. No modern criteria have determined its organization. One theme is iterated and reiterated throughout county organization: diffusion and confusion of administrative authority, created by the direct election of administrators and the absence of a chief executive officer. The principle followed was the Jacksonian one of electing by popular vote all important officials. The various systems of county government in the United States reveal large and small governing boards elected at large, by districts, and by divers combinations of these methods.

The County Board

The chief instrument through which the county functions is the county board. That it be of the right size and composition is vital to the proper administration of the county. All evidence points to the feasibility of a small board of three to seven members. Large boards are more expensive than small ones. The boards elected from townships, districts, or wards, as in New York, Michigan, Illinois, Wisconsin, Tennessee, Arkansas, and Louisiana, have little to recommend them. Some argue that they are more representative in character. Although highly

representative, large boards represent not the interests of the county as a whole, but rather the desires of the particular townships, civil districts, or wards from which members are selected. The only valid reason for a large county board thus composed is that each such ward or division has peculiar interests at stake in county administration which must be protected by special representation. It is inconceivable that there are as many as twenty to fifty distinct sectional interests requiring separate representation within the average county. Upon the county board, distinct representation may be demanded by the interests of conflicting groups within a particular county, as, for example, the urban and rural areas. Wherever this feeling is intense, and election at large might mean a sweep for either urban or rural elements to the detriment of the group out of power, proportional representation will assure minority representation.

For the average rural county, without any large city within its borders, or any distinct sectional interests, the county board should take the form of three or five commissioners elected at large for a term of four years. There is a good deal to be said for the election of part of the county board every two years rather than the election of the entire board every four years. In the case of a board of five members, this would mean the selection of three members at one biennial election and of two members at the next. The board would always contain some members with a knowledge of the operation of county government. A more continuous flow of policy would result. Election

at large, if the experience of American cities means anything, will produce county commissioners of a higher caliber.

Nomination of candidates by petition and non-partisan primary is the ideal way. Presentation of a petition signed by a certain percentage of the qualified voters who voted in that county in the last preceding gubernatorial election might be feasible in some counties, the filing of such a petition to constitute nomination without a non-partisan primary. This would simplify the electoral process in a small county to nomination by petition and a non-partisan election at which a plurality elects. Whether by petition alone or by a combination of petition and non-partisan primary, the essential thing is that the process of nominating and electing members of the county board be non-partisan. As has often been said, there is no Republican or Democratic way of running a county. Little is gained and much is lost by conducting counties in accordance with the party divisions that prevail in state and national affairs.

For the county with a medley of urban and rural interests, or with diversified racial strains, it may be that some recession must be made, as a matter of political expediency, from the principle of election at large and a district system established. However, representation of these interests can be most accurately secured by the Hare plan of proportional representation. Under this system, the voter marks his ballot in accordance with his preferences, placing the figure 1 beside his first choice, the figure 2 beside his second choice, and so on. He may express as

many preferences as there are candidates on the ballot. Suppose a county board of five members is to be elected, and 5,000 valid ballots are cast. The number of votes required for election to the board is known as the quota. This is determined by dividing the number of valid ballots by the number of members of the county board plus one. This gives a quotient of 833⅓, and the next whole number, 834, is the quota which a candidate must receive to secure election. The ballots are first counted in accordance with the first choices. If candidate A has more than 834 first choices, he is elected, and his surplus ballots distributed to the remaining candidates in order of their second choices. If any other candidate obtains a quota by this transfer of surplus ballots, he, too, is elected and no more ballots are counted for him. The next step is to drop from the race the candidate with the lowest number of first choices and distribute his ballots according to the second choices. If any of these ballots has a second choice marked for a candidate already elected, it is transferred according to the third choice, and so on. The lowest candidates on the count of first choices are successively dropped from the race and their ballots redistributed according to other choices marked until five candidates have obtained an electoral quota of 834 ballots.

The Hare plan seems complicated to the American voter because of its unfamiliarity, and because of the method of counting the ballots. It assures proportionate representation to minorities. While it appears to be complicated, its

actual results can be simply explained. Let us assume in this election for a county board of five members in which 5,000 ballots were cast, that there were 3,000 rural votes and 2,000 urban votes. Assume further that there were five rural and five urban candidates, and that every rural voter marked his first five choices for rural candidates and his last five choices for urban candidates, while every urban voter marked his first five choices for urban candidates and his last five for rural. The result would be that the rural voters would obtain three members of the county board and the urban voters two. This would happen regardless of the way in which the rural and urban voters scattered their first choices among the candidates. In the counting of ballots the second, third, and fourth choices would be concentrated upon their respective candidates so that in one case three and in the other case two would emerge with the necessary quota of 834 votes. Proportional representation assures representation to minorities in accordance with their voting strength. So far, it has been used in the United States only for municipal elections.[10] It has worked best in Cincinnati where the independent voters have been encouraged and the machine organization discouraged in municipal government. Although no electoral device can rise higher than its source

[10] The P. R. movement in the United States can be followed in the "Proportional Representation" notes which appear every month in the *National Municipal Review*. A discussion by Joseph P. Harris of "The Practical Workings of Proportional Representation in the United States and Canada" was printed as a supplement to the *National Municipal Review*, XIX, No. 5, May, 1930.

—the candidates—proportional representation facilitates elections that are independent of party machines. It does away with the necessity of a primary; nomination takes place by petition alone.

While its use in this country has so far been restricted to cities, proportional representation could be used in selecting county boards. In the average rural, homogeneous county, it is not as necessary as in suburban and urban regions. A small board elected at large should meet the needs of the typical rural county. For the county with distinct urban and rural regions, it may be necessary to placate local feelings by the use of a district system of representation. However, it is a common observation that, in urban counties, the rural minority tends to have a majority on the county board even under election at large.

County Officers and the County Board

The next basic problem of internal organization is the relation of the county board to the administrative officers of the county. The typical situation in county government is one in which they are independently elected. These county officials "sit serene on their little independent islands of authority, caring nothing for the tax rate since the board of supervisors carries the brunt of that and caring nothing for the supervisors except for the need of getting the money out of them once a year. The supervisors on their part can starve these executives without being blamed for the resultant conditions in the jail or the poorhouse. It is not a government, it is a dozen govern-

ments loosely tied together."[11] A number of remedies have been put forward to meet this situation.

One plan is predicated upon the principle that the county board should be entrusted with direct power to appoint and remove county officers. This means a transition from a county board which can treat with administrative officers only through indirect methods to a board which can hire and fire the principal officers of the county. This was recommended for Mississippi: "Responsibility for the appointment, discipline, and removal of the other principal county officials should be more definitely located and, subject to certain exceptions, should be centralized in the board of supervisors."[12] This would bring the county officers directly under the power and authority of the county board. Responsibility would be fixed upon the board. The members would not have as an alibi for poor county administration the fact that they could not control the independent county officers. The board would be in a position to control county officials, and would have to accept responsibility for the type of administration which they rendered.

However, this is not a model relationship. It may be the only centralization of appointive authority which the people will accept, but it is not ideal. As the report on Mississippi holds, the county officers should be "appointed

[11] R. S. Childs, "A Model State Constitution," National Municipal League, p. 41.

[12] Institute for Government Research of the Brookings Institution, *Report on a Survey of the Organization and Administration of State and County Government in Mississippi*, 1932, p. 753.

by and responsible to a single head, which in the case of Mississippi counties in their present stage of evolution may well be the board of supervisors." [13] Since the chief executive has made such slow progress in American counties, concentration of power to appoint and remove in the county board will for some time be an expedient compromise. It entails a more responsible governing body than that which results when officers are directly elected. Although this compromise does not call for a chief executive who must stand or fall on his record, the board is put in a position to stand or fall on its record. Since the board is a multiple body, however, there can be buck-passing and pointing of the finger when something goes amuck.

Another scheme for reorganization of county affairs is the creation of an elective county mayor, entrusting to him the power to appoint and remove important officers. This suggestion has made no headway. Save for a few rarities, such as the so-called county president of Cook County, Illinois, American counties have shown no disposition to adopt either the strong-mayor or the weak-mayor and council form, so prevalent in municipalities. Although a county mayor would be an advance over the existing structure in many places, this has its shortcomings. The ballot box, as city records show, does not always produce the best type of chief executive. The vote-getter would be as much in evidence as county mayor as he now is as municipal mayor. Admitted that we have picked

[13] Institute for Government Research of the Brookings Institution, *Summary of the Facts, Findings and Recommendations*, p. 77.

some remarkable chief executives for cities by popular election, we have also elevated some playboys to the municipal mayoralty who obtained their election by circus methods. Because of the need for training, ability, and experience, the way to choose a chief executive is by appointment, not in the hurly-burly of a popular election. The mayor and council form is open to another drawback as applied to county government. Although the county board could control such a mayor and his subordinates through its power over appropriations, it would be dealing with an executive who could point to his mandate from the people. The board would not have to cope with a series of independent executives, but with one. Mayor and council government is two-headed, and responsibility may be lost in strife between the two.

The county mayor project is all to the good if the right type of mayor be procured. Of this, however, there is no assurance. If the county board disagrees with the mayor's administrative policy, it has no power to remove him. It can only await popular reaction at the next election, unless the mayor be subject to recall during his term of office. A mayor must give considerable time to enhancing his prospects at the next election, and this detracts from his efficiency. A county mayor would be as much engrossed in this activity as any other mayor. The public is notoriously fickle when it comes to reëlection. This means haphazard turnovers in the chief executive's office, with high probability that each succeeding county mayor will jettison the old department heads. Granting all this,

still the mayor plan would be a real step in advance over the existing situation in many counties where friction exists or is likely between the board and a series of independent officers. Such a county mayor should have power to appoint and remove administrative heads, unhampered by the advice and consent of the governing board of the county. If there is to be a chief executive responsible for county administration, his power should be commensurate with his responsibility.

A third possibility of adjustment of the relations between the county board and the county officers lies in the county manager plan. Under this system, the board controls the administration through its power to appoint and remove a manager. Formulation of policies, making of appropriations, determination of the tax levy—these are in the hands of the county board. Responsibility for the administration of these policies rests with the manager. To that end he is given power to appoint and remove the heads of departments. Upon the electorate falls the responsibility for selection of a capable county board; upon the board rests the obligation to choose a competent manager; and upon the manager, at the peak of the pyramid, depends the appointment of efficient department heads, such as a clerk, director of finance, and superintendent of public works. Since these heads, in turn, select the rank and file of employees, a continuous chain of responsibility runs from the electorate to the rank and file. Yet the voters, since they have only to elect a small county board, have no onerous duty. What is there in the county

manager plan to recommend it to the American people? The manager plan has an honorable record in municipal government. Already, some counties are experimenting with it, and there are numerous pseudo-managerial systems.

Everyone admits that a government with an antiquated design may be excellently administered, while the best form of government ever conceived by the brain of man can be poorly administered. In political science we must deal in probabilities, not in the extreme range of possibilities. Granted the same amount of civic interest applied to both an excellent and a poor form of government, the former should produce better results in administration. From the point of view of internal structure, the manager plan offers to county voters a short ballot in contrast to the long one now ubiquitous. The appointed executive, the manager, is chosen on the basis of special training, experience, and ability. In place of a cluster of independently elected administrators, the manager plan substitutes a group of appointed department heads working under the unified command of a chief executive. If the manager does his work well, and if the people select county supervisors who recognize merit in the manager, there is an end to constant overturn of county officials on political grounds.

If it be counted peculiar that such a form of government has made few converts among the counties, it is intelligible because few counties to date have had the legal opportunity to adopt this plan. Many state legislatures cannot,

because of constitutional restrictions, grant counties the opportunity to employ managers. Obviously, the need for the manager plan is most pressing in urban and suburban counties. In the average rural county, the selection of administrative officers by the county board or by a county mayor would be a distinct advance over existing conditions, but this is no argument against the county manager plan. The latter is a high standard to which counties will conform but slowly.

Too many county officers—clerks, treasurers, registers of deeds—are directly elected by the people. Over these the county board can exercise only a nominal supervisory control. Each tends to be a law to himself in the administration of his particular province in county affairs. It is not enough to have, as many states do, a small county board elected at large. The greatest lack is that of any chief executive. This the manager plan can best supply.

Another standard applicable to counties is that of unifunctional departments. Similar activities have not been grouped in a single department. County affairs have been strewn among miscellaneous offices. This is an age of specialization in public as well as in private life. Administration—and county administration is no exception—can no longer be entrusted to the elected amateur. For adequate health and welfare work it is essential that trained workers be found. A hundred years ago, any reasonably successful farmer was competent to supervise or perform the few functions which county government attempted. This is no longer the case, when it demands technical skill in ac-

counting, assessing, engineering, and professional training in education, judicial work, health and welfare activities. People's ideas as to the sphere of county administration have changed. County administration is no longer successful if it merely keeps the peace and builds a few dirt roads. A range of services unknown to past generations is demanded. An archaic mechanism, designed to keep the peace and provide a few elementary needs, must be refurbished to meet the expectations of its constituents. A headless county government with a number of independent and directly elected officials performing functions that have not been integrated into departments is not capable of assuming additional responsibility.

Shibboleths from the Jacksonian era rule us. Many believe that all county officers must be elected by the people to insure democracy and to prevent creation of a chief executive armed with powers of appointment. The frontier principle that any man can govern has unfortunate results in an age when problems of local administration are intricate and technical. Rotation in county offices satisfies many party workers, but it precludes employment of experts. The long ballot may have been satisfactory in times gone by. In a day of specialization it is obsolete.

Why is the process of adopting modern standards in county government tedious and tortuous? The urge to private profit and the strife of competition make for the utilization of new modes in business. High pressure salesmanship keeps the people alert to the need of possessing the latest products of the industrial world. In county and

township there are no such incentives. The vast majority are more concerned with business, family, church, and club than with the operation of government. The urban group is not yet fully aroused to its stake in rural government through state aid; the rural group is not yet fully convinced that reforms applied to municipal government should be adapted to counties. Many state constitutions, as we have seen, outline the structure of county government, name the county officers, specify how they must be selected. No alternative is open to individual counties. The same governmental mechanism is imposed upon the large and small, the wealthy and poor, the populous and sparsely settled counties. In so far as counties do not have legal option to take advantage of developing standards, they cannot be blamed.

Prospectus

Home rule, managers, departmentalization, and consolidation are the issues of the day in county affairs. They entail a change in the legal position of the county, in its administrative structure, and in its area. Together, they constitute a composite plan for revitalizing the county. They are bound to arouse political opposition. All moves to reorganize counties have to be made on a checker-board of local patriotisms. Demand for functional consolidation and state centralization will continue unless improvement in county government sets in. Specialists interested in one particular rural function obtain from the state legislature authorization for consolidation on a multi-county basis of

their specialty—health, roads, almshouses. If each set of specialists—highway engineers, health administrators, welfare workers—goes to the state capital and obtains legal authorization for functional consolidations, ultimately the county will be shattered into fragments for functional districts. This movement would be checked if whole counties instead of single functions were united. Consolidated counties of 2,000 to 3,000 square miles might not be quite the geographical areas that a specialist in a particular administrative activity would desire, but they could handle the major functions of roads, health, poor relief, records, and finance. Disorganization of townships and transfer of their functions to counties would strengthen the latter. Such a program should induce more vigorous county government. If, however, the program is to be otherwise with a transfer of functions to multi-county functional districts or the state, the county will fade into a mere administrative district of the state.

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